

EXHIBIT E

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION

SONOS, INC.,)
)
PLAINTIFF,)
)
vs.) No. C.A.
) 6:20-CV-881
GOOGLE LLC,)
)
DEFENDANT.)
-----)

VIDEOTAPED ZOOM DEPOSITION OF
KEVIN C. ALMEROOTH, PH.D.,
TUESDAY, JUNE 22, 2021

JOB NO. 4667594
REPORTED BY: D'ANNE MOUNGEY, CSR 7872

1 DEPOSITION OF KEVIN ALMEROTH, PH.D., TAKEN ON BEHALF OF
2 DEFENDANT AT SANTA BARBARA, CALIFORNIA, COMMENCING AT
3 8:14 A.M. ON TUESDAY, JUNE 22, 2021, BEFORE D'ANNE
4 MOUNGEY, CSR 7872.

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6
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20 ALSO PRESENT:

21 DANIEL BRUUN, VIDEOGRAPHER
22
23
24
25

I N D E X

WITNESS	EXAMINATION	PAGE
KEVIN C. ALMEROOTH, PH.D.,		
	BY MR. JAFFE	5

E X H I B I T S

NO.	PAGE	DESCRIPTION
EXHIBIT 1	10	U.S. PATENT NO.: US9,344,206 B2 LAMBOURNE
EXHIBIT 2	10	U.S PATENT NO.: US10,469,966 B2 LAMBOURNE
EXHIBIT 3	10	U.S. PATENT NO: US10,848,885 B2 (12) UNITED STATES PATENT LAMBOURNE
EXHIBIT 4	10	ALMEROOTH DECLARATION
EXHIBIT 5	10	ALMEROOTH REPLY DECLARATION
EXHIBIT 6	185	ITC CC ORDER "EXHIBIT 7"

SANTA BARBARA, CALIFORNIA

TUESDAY, JUNE 22, 2021; 8:14 A.M.

THE VIDEOGRAPHER: Good morning. We're
on the record at 8:14 a.m. on June 22nd, 2021. This
is media unit number 1 of the video recorded
deposition of Kevin Almeroth in the matter of
"Sonos, Inc. versus Google, LLC."

My name is Daniel Bruun and I'm the 08:14:25
videographer from the firm Veritext Legal Solutions.
The court reporter is D'Anne Moungey from the firm
Veritext Legal Solutions.

Counsel, will you please introduce
yourself and state your affiliations for the record. 08:14:38

MR. JAFFE: Jordan Jaffe of Quinn Emmanuel
on behalf of Google.

MR. RICHTER: Good morning. Cole Richter
from Lee Sullivan Shea and Smith on behalf of
plaintiff, Sonos, and the witness. 08:14:51

THE VIDEOGRAPHER: Will the court reporter
please swear in the witness.

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1 KEVIN ALMEROTH, PH.D.,
2 having been first duly sworn by the reporter, was
3 examined and testified as follows:
4

5 EXAMINATION

6 BY MR. JAFFE:

7 Q Good morning, Dr. Almeroth.

8 A Good morning.

9 Q You've been deposed before; correct?

10 A Yes. 08:15:20

11 Q Approximately how many times?

12 A I think it's in the ballpark of about 100.

13 Q So you're a veteran at this, so I'm not
14 going to go over the ground rules. But if you have
15 any questions as we go along, feel free to ask them. 08:15:34
16 Okay?

17 A Understood.

18 Q Have you done virtual depositions before as
19 well?

20 A I have. 08:15:42

21 Q So I'm just going to go over a couple
22 things for virtual depositions.

23 Number 1, even though we're not in the same
24 room, do you understand that you are under oath
25 today? 08:15:55

1 A Yes.

2 Q And even though we're proceeding virtually,
3 you don't have anything in front of you, other than
4 kind of what we're going to be going through today
5 in terms of exhibits; is that correct? 08:16:09

6 A That's correct.

7 Q And you don't have any sort of
8 communication set up with anyone outside of the
9 deposition; is that right?

10 A That's correct. I do not. 08:16:21

11 Q How many times have you testified on behalf
12 of Sonos before?

13 A I believe it's four or five matters.

14 Q Oh, sorry. I have a couple other things I
15 want to ask about remote depositions, briefly. 08:17:04

16 Is there anyone else in the room with you?

17 A No.

18 Q What documents do you have in front of you,
19 if any?

20 A I have my opening declaration, Google's 08:17:16
21 rebuttal brief, Dr. K's declaration and then the
22 three patents and my rebuttal declaration.

23 Q Do you have any devices in front of you,
24 other than the computer you're using for this
25 deposition? 08:17:44

1 A No.

2 Q I think this goes -- kind of folds into a
3 prior question I ask just to confirm: Do you have
4 any sort of chat features open?

5 A No. 08:17:54

6 Q Do you understand you're not to communicate
7 with others outside of Zoom during this deposition?

8 A That's my understanding.

9 Q You mentioned you, I guess, worked for
10 Sonos as an expert witness in four or five expert 08:18:14
11 matters.

12 I guess as part of that, how many times
13 have you testified, whether at deposition,
14 declaration, or trial?

15 MR. RICHTER: Object to the form. 08:18:26

16 THE WITNESS: I think working backwards,
17 there's this claim construction deposition in the
18 "Sonos versus Google," in the ITC case there was a
19 claim construction deposition and expert deposition
20 and then testimony at the hearing. 08:18:46

21 Prior to that, there was the "Sonos versus
22 D&M," district court case. There was testimony at
23 trial, testimony for an expert deposition. I don't
24 remember if there were any other depositions, say,
25 around claim construction. 08:19:08

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1 Prior to that, there was Black Hills media.
2 I believe there was an expert deposition. I
3 actually don't remember if that went to a hearing or
4 not.

5 And those are the ones that I remember. 08:19:30
6 They should be in my CV, I think.

7 BY MR. JAFFE:

8 Q Okay. How many times have you testified or
9 worked on matters that are adverse to Google?

10 A There's the Sonos cases, there's Personal 08:19:50
11 Audio. And I actually think there was one case
12 prior to the Personal Audio case that was Personal
13 Audio, I forget who the defendant was, but I think
14 Google was involved in that case. I don't know
15 formally what role or not. 08:20:17

16 There was, I believe, another one for
17 P Web, Personal Web, and I suspect there are others,
18 but I don't remember what they are sitting here
19 right now.

20 Q Can you just give me an approximate number 08:20:39
21 of how many matters that you've worked on or
22 testified adverse to Google?

23 A Maybe about five, plus or minus. I just
24 don't have the ones in mind. There's probably more
25 in my CV that I'm forgetting. 08:20:59

1 I would say five and maybe more.

2 Q How did you prepare for today's deposition?

3 A Essentially --

4 MR. RICHTER: Object to the form to the

5 extent it calls for information protected by 08:21:18

6 attorney-client privilege.

7 Just a caution to the witness not to reveal

8 matters retaining to attorney-client privilege.

9 Other than that, if the witness can answer,

10 he can go ahead. 08:21:33

11 THE WITNESS: So I principally reviewed my

12 declarations. I also looked at Dr. K's declaration

13 and the Google brief.

14 Probably reviewed portions of the patents

15 that were cited to in my declarations and then also 08:21:47

16 met with counsel.

17 MR. JAFFE: Before we get any further, I'll

18 just for the record go through the exhibits that I

19 marked before we got on the record.

20 Exhibit 1 I marked is U.S. Patent 9344206. 08:22:06

21 Exhibit 2 is U.S. Patent 10469966. Exhibit 3 is

22 U.S. Patent 10848885. Exhibit 4 is Dr. Almeroth's

23 opening declaration, docket number 60-25. And then

24 Exhibit 5 is Dr. Almeroth's reply declaration docket

25 66-1. However, that doesn't yet have a stamp on it 08:22:38

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1 because of technical difficulties, but it's labeled
2 as future Exhibit 5 in our Exhibit Share folder.

3 (Whereupon, Defendant's Exhibit 1,
4 Exhibit 2, Exhibit 3, Exhibit 4 and
5 Exhibit 5 were marked for identification 08:22:45
6 by the Court Reporter.)

7 BY MR. JAFFE:

8 Q You submitted thus far in this specific
9 lawsuit two declarations; correct?

10 A Yes. 08:23:06

11 Q Now, let's start with the initial
12 declaration, which is Exhibit 4, which I understand
13 you also have in hard copy in front of you.

14 If you can please just verify what I marked
15 as Exhibit 4 is a copy of your declaration. 08:23:23

16 A Yes, that's correct.

17 Q For Exhibit 4, you're opening declaration,
18 what was the process that you went through for
19 drafting that declaration?

20 A With respect to this declaration, I was 08:23:54
21 focused on looking at the term "data network," so
22 the process would have been going through all of the
23 materials discussed in the declaration, forming an
24 opinion as to what that term would mean, and then
25 preparing a draft of the declaration. 08:24:42

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1 There would also have been as part of that
2 process discussions with counsel, but it's my
3 understanding the substance of those discussions are
4 protected under work product, or whatever it is.

5 And so unless you want to ask about the 08:25:04
6 substance and I get a direction from Cole, then I'll
7 not say more about those discussions.

8 Q You mentioned -- I think you said reviewing
9 materials and forming those opinions.

10	What materials are you referring to?	08:25:22
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11 A Those are the materials that are cited to
12 in the declaration. So there's certainly the
13 patents and also there's some extrinsic references,
14 dictionary definitions that are cited to in the
15 declaration.

16 Q There are patents in other prior references
17 that are cited on the face of the declaration.

18 Did you analyze those for purposes of
19 coming up with your claim construction opinion?

20 MR. RICHTER: Object to the form. 08:25:59

21 THE WITNESS: I'm not sure what you mean by

22 "analyze."

23 I certainly looked at the file history to
24 see if there is anything relevant with respect to
25 the term "data network." To the extent there was 08:26:14

1 anything relevant, I would have cited it. I don't
2 recall citing to anything from the prosecution
3 history.

4 BY MR. JAFFE:

5 Q To be clear, I'm not just referring to the 08:26:30
6 prosecution history.

7 If you look at the patent, for example,
8 '206 Patent, there's lists of other patents that are
9 cited on the front.

10 Are you familiar with that? 08:26:45

11 THE REPORTER: On the?

12 MR. JAFFE: "Front."

13 BY MR. JAFFE:

14 Q And the question was: Are you familiar
15 with what I'm referring to? 08:26:55

16 A Yes.

17 Q Did you review any of those patents or
18 prior art references for purposes of forming your
19 claim construction opinions?

20 A As I sit here right now, I don't recall if 08:27:04
21 I looked at any of the specific references. I
22 certainly looked at the prosecution history to see
23 if there was any opinion during prosecution as it
24 related to what the term "data network" meant.

25 There were some discussion that related to 08:27:28

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1 a particular reference, then I would have also
2 reviewed that reference.

3 It's also quite possible, I don't have that
4 list of references memorized, that I would have
5 looked at some of those references in the specific 08:27:40
6 context looking at patents from this family at some
7 point.

8 So I might have looked at some
9 specifically, but generally I would have looked to
10 see if there was any relevance to those references 08:27:54
11 in the prosecution history.

12 Q Other than references cited in the
13 prosecution history -- or, well, actually, let me
14 back up.

15 When you're -- at some level, all the 08:28:05
16 references are cited in the prosecution history that
17 are listed on the patent; correct?

18 That's how they get listed on the patent in
19 the first place?

20 A I understand -- 08:28:19

21 MR. RICHTER: Object to form.

22 THE WITNESS: To the extent that they're
23 cited on the patent, it's my understanding that
24 those references then become part of the prosecution
25 history. 08:28:30

1 BY MR. JAFFE:

2 Q Right.

3 That was kind of a preamble to this
4 question, which is: I'm understanding your prior
5 answer to mean if something was discussed 08:28:38
6 substantively in the prosecution history, you looked
7 at it for purposes of your opinions; is that right?

8 A Well, not quite.

9 I looked to see if references were
10 discussed as it related to the term "data network." 08:28:52
11 I also looked -- I mean, I had to look through the
12 prosecution history and what was part of kind of the
13 prosecution history file to see if there was
14 anything relevant to data networks, as well as just
15 seeing what was in the prosecution history. 08:29:12

16 Specifically with respect to data networks,
17 I don't recall there being anything that required
18 any more sort of in-depth analysis.

19 Q Did you analyze any of the prior art
20 references cited on the face of the 206, the 966, or 08:29:29
21 the 885 patent for purposes of arriving at your
22 claim construction opinions?

23 A I'm not sure how you're using the term
24 "analyze." Again, I think to the extent they looked
25 through the prosecution history to see if there were 08:29:52

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1 any references cited on the face of the patent that
2 bore on the question of whether or not the
3 limitation was met by the prior art, I would have
4 gone through that exercise.

5 Sitting here now, I don't recall that there 08:30:06
6 was anything from the prosecution history, but I
7 will say it's my standard practice to look through
8 the prosecution history as part of doing a claim
9 construction analysis.

10 Q Sitting here today, what prior art 08:30:24
11 references cited on the face of the '206 Patent, the
12 966 patent, and the 885 patent do you recall
13 reviewing in preparation for your -- offering your
14 claim construction opinions?

15 A Sitting here right now, I don't recall 08:30:45
16 there being specific references that were identified
17 in the prosecution history as it relates to the term
18 "data network" from the first declaration, but I
19 defer to both the prosecution history and also my
20 declaration. 08:31:02

21 Q How much time did you spend preparing your
22 opening declaration?

23 A I would say it was in the neighborhood of
24 about 15 hours. Maybe 10 to 20 hours. So 15 hours,
25 plus or minus. I'm not exactly sure. 08:31:45

1 Q One piece of terminology before we keep
2 going to save us some time, if I refer to Exhibits
3 1, 2 and 3 collectively as the "Zone Scene Patents,"
4 will you know what I'm referring to?

5 A Yes. 08:32:04

6 Q Is that a fair characterization for today's
7 deposition at least?

8 A Yes, I have used it myself.

9 Q You also prepared a rebuttal declaration in
10 this matter; correct? 08:32:24

11 A I did. I think it's probably formally a
12 reply declaration.

13 Q How long did you spend in preparing that
14 declaration?

15 A Probably slightly less than the opening 08:32:36
16 declaration, but probably the same ballpark is
17 accurate.

18 Q And then I want to ask just while we're on
19 the topic a similar question that I asked relating
20 to the opening declaration, which was: Sitting here 08:32:59
21 today, do you recall reviewing any prior art
22 references cited on the face of the Zone Scene
23 Patents in forming your opinions in the reply
24 declaration?

25 A I think it would be a similar answer as to 08:33:14

1 what I gave with respect to the opening declaration.

2 Try and sort of summarize it.

3 I reviewed the prosecution history. To the
4 extent that there were any references that dealt
5 specifically with the terms that are identified in 08:33:31
6 the reply declaration, I would have looked at those
7 references in more detail.

8 But, otherwise, sitting here right now, I
9 don't recall particular references that I looked at
10 as part of this claim construction process, but I 08:33:45
11 would defer to what my declaration says, in this
12 case the reply declaration, and also what the
13 prosecution history says as to whether or not I
14 either cited to the prosecution history or there's
15 portions of the prosecution history that bear on 08:34:03
16 what those terms may mean.

17 Q Did you review any Sonos patents, other
18 than the patents-in-suit in forming your opinions on
19 claim construction in this matter?

20 A For purposes of claim construction in this 08:34:22
21 matter, I don't think I specifically did. But
22 certainly I have offered opinions in the ITC, for
23 example, as to what similar terms mean in the
24 context of those patents.

25 So I don't think I specifically went 08:34:45

1 through those opinions or those patents as it
2 relates to this claim construction declaration.
3 But, again, I defer to my declaration. I don't
4 think it kind of cites to any of those other
5 patents, but I don't have the declaration memorized. 08:35:05
6 Maybe it does and I'm just not remembering.

7 Q Sitting here today, you don't recall
8 reviewing any other Sonos patents in coming up with
9 your claim construction opinions in this case; is
10 that fair? 08:35:22

11 MR. RICHTER: Object to form.

12 THE WITNESS: As I sit here now, I don't
13 remember anything specific, but I think it would be
14 pretty much what I said in the last answer.

15 BY MR. JAFFE: 08:35:35

16 Q In other words, you don't recall anything
17 sitting here today, but to the extent it's cited in
18 your declaration, you would have looked at
19 something; is that fair?

20 A I think that's fair. I would have cited to 08:35:44
21 it to the extent that I would have relied on it in
22 forming my opinions.

23 Q Now, I just asked about Sonos patents.

24 I want to ask a slightly different
25 question, which is: In forming your opinions on 08:36:02

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1 claim construction in this case, did you review any
2 materials regarding any Sonos products or systems?

3 MR. RICHTER: Object to form.

4 THE WITNESS: That's both a similar answer
5 and a little bit more complicated. 08:36:21

6 I know that some patents that I've reviewed
7 in the past have identified specific Sonos products,
8 but if I understand your question correctly, I don't
9 think I've cited to a Sonos product document
10 independent of what's described within the 08:36:44
11 patents -- in the Zone Scene Patents as a basis for
12 my claim construction related opinions.

13 BY MR. JAFFE:

14 Q Have you reviewed all three of the Zone
15 Scene Patents in forming your opinions on claim 08:37:15
16 construction?

17 A I have read all three patents, and where
18 relevant, I relied on those patents. Maybe just a
19 short answer is I reviewed all three of the patents.

20 Q How much time have you spent reviewing the 08:37:32
21 Zone Scene Patents overall?

22 A I don't really have a specific breakdown
23 based on the estimates that I gave you before, but
24 maybe several hours or maybe less than several.
25 Somewhere between a few and several. Three to five 08:37:54

1 hours. It's hard to say.

2 Q Do you understand what's disclosed in the
3 Zone Scene Patents?

4 A I believe I do. In some cases I've gone
5 the step of formulating opinions that are contained 08:38:12
6 in the declarations and other cases I haven't formed
7 opinions yet. If it's not in the declaration, I
8 haven't really tried to answer particular questions
9 about the claims or the subject matter.

10 Q In forming the opinions that you offer 08:38:32
11 during claim construction, do you consider the
12 entirety of the claim language or just each of the
13 terms that you looked at in isolation?

14 A I considered the entirety of the claim
15 language. 08:38:48

16 Q So in consideration of the entirety of the
17 claim language, would you say you understand the
18 entirety of the claim language?

19 A I understand it to the degree necessary to
20 form the opinions that are contained in the 08:39:00
21 declaration. I haven't taken, for example, specific
22 positions on what other terms in the claims might
23 mean, or certainly applying those terms or other
24 kinds of analysis, at least as -- or at least for
25 the opinions contained in the declaration. 08:39:19

1 Q So I want to turn to your opening
2 declaration, which I marked as Exhibit 4.

3 A I got it.

4 Q If I can take you to paragraph 52.

5 A Okay. 08:40:24

6 Q About halfway through this paragraph, I
7 guess it's the second-to-last sentence it says,
8 quote:

9 "Most of the protocols used
10 at the time of the claimed 08:40:39
11 inventions and still in use today
12 are based on the 802.11 standard
13 and are differentiated by the
14 letter appearing after the
15 number." 08:40:49

16 Do you see that?

17 A I do.

18 Q What is the claimed invention of the
19 '206 Patent?

20 MR. RICHTER: Object to the form. 08:41:07

21 THE WITNESS: Normally when I get that kind
22 of question at this stage, I would point you to the
23 particular claims, the particular claims or the
24 embodiment of the invention.

25 /// 08:41:30

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1 BY MR. JAFFE:

2 Q Sorry. Are you finished with your answer?

3 You said normally I would say this. I
4 wasn't sure if it was a preamble to something else.

5 A No. I understand. 08:41:37

6 But, no, at this point I would point you to
7 what the claims are is what the embodiment of the
8 invention is.

9 Q Okay. Let me just ask that one more time
10 to just clean it up. 08:41:50

11 What is the claimed invention of the '206
12 Patent?

13 MR. RICHTER: Object to the form.

14 THE WITNESS: At this point I would point
15 you to what the individual claims are, what the 08:41:59
16 invention is.

17 BY MR. JAFFE:

18 Q What is the invention of the 966 patent?

19 MR. RICHTER: Same objection.

20 THE WITNESS: At this point I would just 08:42:12
21 point you to the claims that show up at the end of
22 the 966 patent.

23 BY MR. JAFFE:

24 Q What is the invention of the 885 patent?

25 MR. RICHTER: Same objection. 08:42:22

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1 THE WITNESS: Same. At this point I would
2 point you to the claims that show up at the end of
3 the patent.

4 BY MR. JAFFE:

5 Q So other than pointing to the claims of the 08:42:30
6 patent, you can't tell me, sitting here today, what
7 the invention of the 206, the 966, and the 885
8 patents are; is that fair?

9 MR. RICHTER: Object to the form;
10 mischaracterizes the testimony, calls for a legal 08:42:46
11 conclusion.

12 THE WITNESS: Well, I've pointed you to the
13 claims. If you're asking me for something different
14 than the claims, I could point you to other portions
15 of the specification that I specifically describe 08:43:00
16 what the invention is.

17 But with respect to some kind of pithy,
18 high-level characterization as to what the invention
19 is, there's some background discussion of the
20 patents in my declaration, but I would have to give 08:43:18
21 some thought to how I would describe what the
22 invention is beyond pointing to the claims as a
23 starting place.

24 BY MR. JAFFE:

25 Q Is the invention of the '206 Patent novel? 08:43:33

1 MR. RICHTER: Same objections.

2 THE WITNESS: Well, I haven't taken a
3 position one way or another with respect to, for
4 example, the validity as it relates to the '206
5 Patent.

08:43:48

6 But I think it's my understanding at this
7 point that it's assumed to be a U.S. Patent and I
8 believe that as part of that there's some to be
9 patentable claim, patentable invention.

10 BY MR. JAFFE:

08:44:05

11 Q Let me ask a better question.

12 In forming your opinions on claim
13 construction, have you analyzed the novelty of the
14 206, the 966, or the 855 patents?

15 A I don't recall taking specific positions on
16 novelty, but I would defer to the opinions that are
17 contained in the declaration, to the extent that
18 they bear on questions of novelty or other related
19 subjects.

08:44:17

20 Q Before you were retained for purposes of
21 this case, were you aware of the Zone Scene Patents?

08:44:58

22 A As I sit here now, I don't have a
23 recollection of specifically being aware of the Zone
24 Scene Patents before being retained in this
25 particular case.

08:45:35

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1 Q Do you consider yourself -- actually, let
2 me start over.

3 In your opinion, were you a person of
4 ordinary skill for purposes of the Zone Scene
5 Patents in 2006? 08:45:50

6 A Yes.

7 Q Would you say that your -- at that time you
8 were an expert in the field of the 206, 966, and 885
9 patents?

10 MR. RICHTER: Object to the form. 08:46:04

11 THE WITNESS: I believe so. At least as it
12 relates to the subject matter, the relevant subject
13 matter of those patents.

14 BY MR. JAFFE:

15 Q One second here. 08:46:55

16 I would like to turn to your rebuttal
17 declaration, which I kind of preliminarily marked as
18 Exhibit 5 in our Exhibit Share folder.

19 Can you look at what's there and please
20 verify that's a copy of your rebuttal reply 08:47:30
21 declaration.

22 A Yes, that looks to be my reply declaration.

23 Q Now, starting in paragraph 14, Section 4,
24 level of ordinary skill in the art.

25 Do you see that? 08:48:03

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1 A Yes.

2 Q In this section of your declaration, you
3 disagree with Dr. K's view on the level of ordinary
4 skill in the art; correct?

5 A I do. 08:48:21

6 Q I want in particular go to paragraph 18.

7 A Yes.

8 Q In the first sentence says that:

9 "Dr. Kyriakakis contends that
10 two to four years of experience 08:48:46

11 in the field of, 'multimedia
12 systems,' is sufficient which

13 appears to be broad enough to

14 encompass conventional multimedia

15 systems comprising passive 08:48:59

16 speakers connected via

17 traditional speaker wires."

18 Then you say:

19 "In my opinion, having two to
20 four years of experience with 08:49:06

21 such conventional multimedia

22 systems alone would not make a

23 person a POSITA for purposes --

24 for the Zone Scene Patents."

25 Do you see that? 08:49:18

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1 A I do.

2 Q Am I understanding correctly that your
3 opinion is if you have experience with what you
4 describe as conventional multimedia systems, that is
5 not enough to make you a person of ordinary skill 08:49:33
6 for purposes of the Zone Scene Patents; is that
7 right?

8 A So there's some ambiguity. It seems based
9 on Dr. K's position, probably should call him
10 Kyriakakis -- position as to what a multimedia 08:49:53
11 system could be and it seems to his understanding,
12 at least as it relates to how he's interpreting
13 terms for construction in this case, that it could
14 be broad enough to cover traditional speaker wires,
15 and if his definition is that broad, that's what a 08:50:11
16 multimedia system means to him, then I think that
17 that's too broad of a definition.

18 Q What type of systems do you think a person
19 of ordinary skill needs to have experience with to
20 be the kind of the legal person of ordinary skill 08:50:35
21 for purposes of the Zone Scene Patents?

22 MR. RICHTER: Object to the form.

23 THE WITNESS: So I describe it generally in
24 paragraph 14 as networking and network based systems
25 or applications and then give some examples, such as 08:50:53

1 consumer audio systems.

2 So examples of maybe a streaming audio
3 system where you have to deal with issues like
4 encoding and decoding, packetization,
5 depacketization, those kind of issues might be an
6 example of the kind of system that a person of skill
7 in the art would have some familiarity with.

08:51:14

8 BY MR. JAFFE:

9 Q What type of systems are you aware of
10 before 2006 that you think would be appropriate for
11 a person of ordinary skill to have experience with
12 to qualify them as a person of ordinary skill?

08:51:32

13 A At least as it relates to the audio side,
14 again, I can kind of think of a commercial examples
15 of streaming audio systems. You know, I'm actually
16 thinking back even earlier into the '90s, real
17 audio, real networks, they have follow on products
18 like the Helix project to be able to do things like
19 streaming media.

08:51:56

20 There were streaming media services that
21 existed, so at least on the side of dealing with the
22 content with the multimedia, you could envision
23 things like streaming audio and music as an example.
24 That's probably the -- one of the starting places
25 since the description also includes this networking

08:52:17

08:52:38

1 and network based system.

2 So not so much specific to multimedia, so
3 it might be things where you're just doing
4 traditional network socket programming, so not so
5 much a commercial product that would have existed,
6 but just general techniques of how to program
7 computers to send and receive data.

08:52:58

8 Q Are you saying in your opinion here you
9 need to have experience with a multimedia system
10 that does not include passive speakers, connected
11 via traditional speaker wires to be a person of
12 ordinary skill?

08:53:16

13 MR. RICHTER: Object to the form.

14 THE WITNESS: I don't think I'm quite
15 saying that.

08:53:27

16 What I'm saying is that Dr. Kyriakakis's
17 definition is broad enough to my understanding of
18 how he's using the term "multimedia system" to
19 include conventional passive speakers. And if that
20 were the basis for someone's experience and they had
21 two to four years of experience in that area, that
22 that would not be sufficient to meet the definition
23 of a person of skill in the art.

08:53:46

24 So you need something more sort of network
25 related, something dealing with packets and sending

08:54:04

1 and receiving of digital data over networks as
2 opposed to something that -- like passive speakers
3 that you would need in order to qualify as a person
4 of skill in the art.

5 BY MR. JAFFE:

08:54:25

6 Q So were there any kind of multimedia audio
7 systems before 2006 that a person of ordinary skill
8 could use and learn in order to qualify themselves
9 in your opinion as a person of ordinary skill?

10 MR. RICHTER: Object to the form;

08:54:44

11 foundation.

12 THE WITNESS: There might have been, but
13 that kind of gets into prior art systems and what
14 may or may not have existed, so I don't really have
15 specific examples that come to mind other than just
16 very basic.

08:54:59

17 And by this point, by 2006, a decade old of
18 things like Personal Audio and more recent -- not
19 Personal Audio -- real networks, and then more
20 recent examples of things like streaming music
21 services and then you would need that kind of -- as
22 I testified to before, that kind of gets you the
23 audio side of the experience. And then there's also
24 kind of just networking fundamentals for sending and
25 receiving digital data and packet form.

08:55:16

08:55:37

1 BY MR. JAFFE:

2 Q So before 2006, looking at paragraph 18,
3 are there any nonconventional multimedia systems
4 that don't include passive speakers connected via
5 traditional speaker wires that you're aware of, 08:56:03
6 sitting here today?

7 MR. RICHTER: Object to the form.

8 THE WITNESS: Those would be the kinds of
9 systems -- well, as it relates specifically to the
10 subject of the patents, I don't have something 08:56:17
11 specific in mind.

12 I sort have broken it down into a component
13 technologies. I think kind of the two components I
14 had used in the previous answer was the multimedia
15 data itself, for example, the audio data how to 08:56:34
16 encode it, decode it and handle it to provide play
17 out, and then the second piece was kind of more the
18 networking piece.

19 So I don't have a specific system in mind
20 that would have predated 2006 that would have given 08:56:50
21 someone particular experience. There might have
22 been, but I guess we'll see those when we look at
23 invalidity for the patents.

24 BY MR. JAFFE:

25 Q What experience do you have, Dr. Almeroth, 08:57:10

1 before 2006 with nonconventional multimedia systems
2 that don't include passive speakers connected via
3 traditional speaker wires?

4 MR. RICHTER: Object to the form.

5 THE WITNESS: Sure. 08:57:26

6 So starting in the early '90s, looking at
7 the delivery of multimedia over the Internet and
8 initially we were focused on audio only and then
9 later it was audio and video in combination with
10 each other, both in the context of streaming and 08:57:44
11 downloading multimedia data.

12 Over the course of time, we looked at
13 issues related to both network support like the
14 Internet and how the Internet could support the
15 delivery of audio and video data. We looked at the 08:58:01
16 use of audio and video and other kinds of multimedia
17 data in classrooms as an example of a rich
18 environment.

19 So how to synchronize different streams so
20 that what was being written on the whiteboard was 08:58:17
21 synchronized with the audio. And then from there
22 expanded to audio and video and other types of
23 multimedia data delivered over wireless networks and
24 then their incorporation into applications.

25 So video conferencing over mobile devices 08:58:40

1 and then sort of using multimedia as a tool or a
2 component to build up new applications, so things
3 like social network type interactions, that sort of
4 thing.

5 So both support in the network for the 08:59:04
6 delivery of multimedia data and then the use of
7 multimedia data in applications.

8 In my answer I said "we." What I mean is
9 my research lab, my students under my direction.
10 There's also courses that I've taught and consulting 08:59:23
11 that I've done on topics related to multimedia
12 networking and system support.

13 BY MR. JAFFE:

14 Q You mentioned a few times in that answer
15 the word "multimedia." 08:59:38

16 What does multimedia mean?

17 A So I understand, it's a construed term. I
18 haven't taken a specific position with respect to
19 what it means in the context of this case, but I
20 think, as I've used it in my answer, it can refer to 08:59:58
21 particular types of non-touchable data.

22 So I think I reviewed to multimedia data.
23 As an example, like audio data. In some cases,
24 multimedia data might refer to a combination of
25 media types. We would say that that application 09:00:22

1 supports multimedia data, that could mean it
2 supports something other than tests, just like
3 audio, it could mean that it supports multiple media
4 types individually.

5 So something like audio only or video only 09:00:41
6 where it's a whiteboard application. So you get
7 data from the whiteboard. I think that would be a
8 multimedia application.

9 Or in some instances you could actually
10 have applications that combined multiple media types 09:00:56
11 together. So like a TV program could also be
12 considered multimedia.

13 So I understand the issue appears to be
14 whether or not multiple types of media are required
15 to be supported and I don't think that that's what 09:01:17
16 multimedia means.

17 Q Do you have an opinion on what the word
18 "multimedia" means in the context of the Zone Scene
19 Patents claims?

20 A I don't think I've taken a position in the 09:01:37
21 declaration as to what the term means, but I think I
22 can answer your questions about how I've used the
23 term in the past.

24 Q Okay. Does multimedia, the plain and
25 ordinary meaning of multimedia in the context of the 09:01:57

1 field of the invention of the Zone Scene Patents in
2 2006, does that include audio alone?

3 MR. RICHTER: Object to the form; scope.

4 THE WITNESS: I don't see a reason why it
5 couldn't, or it wouldn't. 09:02:11

6 BY MR. JAFFE:

7 Q What experience do you have before 2006
8 with what you referred to as multi-zone audio
9 systems?

10 A I think my experience as it relates to that 09:02:43
11 technology is with respect to the underlying
12 technology of digital packet communication over
13 networks, sending and receiving data, sending and
14 receiving multimedia data, looking at issues in
15 stream synchronization. Those kinds of underlying 09:03:15
16 technologies for the patents.

17 There's -- I've also testified on behalf of
18 Sonos. I guess that was all after 2006, so ignore
19 that part of my answer.

20 Q Can you identify any multi-zone audio 09:03:44
21 system that you worked on before 2006?

22 MR. RICHTER: Object to the form.

23 THE WITNESS: I'm not sure I have a
24 specific instance of a system that would fall within
25 that definition, but I can think of instances of 09:04:18

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1 related technology.

2 So, for example, we did a digital classroom
3 we called it in the late '90s and early 2000s where
4 we essentially recognized that there would be many
5 types of audio that would exist within an
6 environment.

09:04:38

7 So speaker audio, a number of different
8 location based audio sources from students asking
9 questions. If there was audio in a presentation
10 being presented on to a screen, that would be
11 another type. And then we were also projecting on
12 the back of the classroom remote participants and
13 they would also have audio as well.

09:04:58

14 So I certainly worked in environments that
15 had multiple types or multiple sources of audio that
16 all had to be handled and synchronized and recorded
17 and stored and manipulated, controlled.

09:05:13

18 So I don't know the specific projects that
19 looked at exactly the kind of technology that's
20 claimed in the Zone Scene Patents, but I think I
21 have done a lot of multi channel audio within
22 environments, complex environments with multiple
23 sources of audio, but that's certainly related.

09:05:35

24 BY MR. JAFFE:

25 Q We've referred to Dr. Kyriakakis a few

09:06:10

1 times in this deposition.

2 Did you review his declaration?

3 A I did.

4 Q Were you familiar with Dr. Kyriakakis

5 before this lawsuit, or being involved in this 09:06:25

6 lawsuit?

7 A I don't have a recollection of knowing him

8 before this lawsuit.

9 Q Do you have any reason to dispute that

10 Dr. Kyriakakis was a person of ordinary skill as of 09:06:44

11 2006?

12 MR. RICHTER: Object to the form.

13 THE WITNESS: I don't have a reason to

14 dispute it. It's not a question I've analyzed, so

15 I -- sitting here now, I don't really have an 09:06:55

16 opinion one way or another.

17 If I looked at his background, specifically

18 tried to answer that question, I might actually have

19 a reason -- I don't know what I would find. I don't

20 know what I would ultimately include. 09:07:10

21 BY MR. JAFFE:

22 Q Sitting here today, do you have a reason to

23 dispute that Dr. Kyriakakis is qualified to be an

24 expert for purposes of the Zone Scene Patents?

25 A It's essentially the same answer. I mean, 09:07:31

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1 sitting here today, I haven't really analyzed the
2 question, so I don't have an opinion one way or
3 another. If I undertook to answer that question,
4 I'm not sure what the answer would be.

5 Q So you did not look at Dr. Kyriakakis's 09:07:46
6 qualifications in forming your opinions in response?

7 A I did not look at his qualifications to
8 make a determination whether or not I thought he was
9 a person of skill in the art. I focused on what his
10 opinions were and either agreed or disagreed with 09:08:09
11 them.

12 Q So in paragraph 17, you refer to multi-zone
13 systems, zone players. There's a number of
14 instances of the word "zone."

15 Do you see that? 09:08:35

16 A I do.

17 Q In the context of the Zone Scene Patents,
18 can a zone have more than one speaker in it?

19 MR. RICHTER: Object to the form.

20 THE WITNESS: I don't believe I've taken a 09:08:51
21 position one way or another. I understand it's
22 something of a disputed term. I think Google is
23 looked to define it on its own and Sonos has done
24 something different. That's not a term that I have
25 ultimately offered an opinion about what its 09:09:10

1 definition is.

2 BY MR. JAFFE:

3 Q I appreciate that.

4 My question was a bit more specific,

5 though, which was: In the context of the Zone Scene 09:09:18

6 Patents, can a zone have more than one speaker in

7 it?

8 MR. RICHTER: Object to the form; scope.

9 THE WITNESS: I haven't taken a position on

10 that one way or another. 09:09:30

11 BY MR. JAFFE:

12 Q Okay. So let's go back to your opening

13 declaration, which I marked as Exhibit 4.

14 A Okay.

15 Q I'm looking at the wrong declaration. One 09:10:13

16 second.

17 While I'm looking this up, we can start.

18 Both of your declarations cite to various

19 portions of the specifications of the Zone Scene

20 Patents; correct? 09:10:28

21 A I believe that's correct.

22 Q You also cite to various portions of the

23 claim language; correct?

24 A I believe I do.

25 Q How did you come up with or identify the 09:10:37

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1 specific portions of the claim language or
2 specification that you were citing in your
3 declaration?

4 MR. RICHTER: Object to the form.

5 THE WITNESS: If I understand the question 09:10:51
6 correctly, it would have been portions of the
7 specification that would have been relevant to the
8 opinions that I was providing.

9 BY MR. JAFFE:

10 Q And how did you know that those portions 09:11:06
11 were relevant as opposed to other portions of the
12 claim specification?

13 MR. RICHTER: Same objection.

14 THE WITNESS: By reading the specification.

15 BY MR. JAFFE: 09:11:24

16 Q In its entirety?

17 A I have read the specification in its
18 entirety.

19 Q What I'm getting at is, let's say
20 hypothetically you cited column 1, lines 1 through 09:11:32
21 10, how did you know to cite that versus column 2,
22 lines 1 through 10?

23 MR. RICHTER: Object to the form;
24 incomplete hypothetical.

25 THE WITNESS: I would have cited to 09:11:45

1 portions that I thought were relevant to my
2 particular opinions. In some cases, for example, in
3 the reply declaration, I would have looked at what
4 Dr. Kyriakakis had cited to and might also have
5 cited to the same things, either to explain that 09:12:03
6 that citation was consistent with what I was saying
7 or was talking about something different or didn't
8 support the conclusion that he suggested it
9 supported.

10 In some cases, I'm looking through the 09:12:20
11 specification for relevant citations to my opinions.
12 In some cases, I'm looking through the specification
13 as well as the claims in responding to opinions that
14 Google and Dr. Kyriakakis have offered.

15 BY MR. JAFFE: 09:12:39

16 Q You didn't consider in forming your claim
17 construction opinions just the portions of the
18 specification and claims you cited, you considered
19 the entirety of the specifications in the claims;
20 correct? 09:12:51

21 A I did. I certainly considered the entire
22 specification of the claims.

23 Q Did you consider specific portions of the
24 prosecution history or did you consider the entirety
25 of the prosecution history for the three Zone Scene 09:13:16

1 Patents asserted in this case?

2 A I think, as I testified to earlier, and I
3 defer to what I said earlier, but I think the short
4 version of it is I reviewed the prosecution history
5 and to the extent there was some part of it that
6 were relevant to the opinions that I was offering in
7 this case or relevant to the positions that the
8 parties were taking that I was asked to analyze,
9 then I might have focused on those portions of the
10 prosecution history over others that were not
11 related.

09:13:33

09:13:49

12 Q Did you review any of the prosecution
13 histories for any of the other related patents in
14 kind of the Zone Scene family?

15 MR. RICHTER: Object to the form.

09:14:03

16 BY MR. JAFFE:

17 Q And, again, sorry, just to clarify, in
18 forming your opinions on the claim construction?

19 MR. RICHTER: Same objection.

20 THE WITNESS: Sure.

09:14:12

21 So there's -- if what you're referring to
22 is the related U.S. application information that's
23 contained on the face and second pages of the
24 patents, again, to the extent any of that was part
25 of the prosecution history for the Zone Scene

09:14:30

1 Patents, I would have reviewed it to see if there
2 was anything related to the positions that the
3 parties were taking, and then the subset of those
4 that I was asked to opine on.

5 BY MR. JAFFE: 09:14:46

6 Q You reviewed the provisional application in
7 forming your opinions on the claim construction;
8 correct?

9 MR. RICHTER: Object to the form.

10 THE WITNESS: I believe I did. I think 09:14:58
11 there's a citation to it in one of my declarations.

12 BY MR. JAFFE:

13 Q And, in fact, it's actually attached to
14 your reply declaration; correct?

15 A I think that's right. At the end. 09:15:08

16 Q And, again, with regard to the provisional
17 application, you didn't review just specific
18 portions that you cited, you reviewed the entirety;
19 true?

20 A That's correct. 09:15:22

21 Q I want to turn --

22 MR. JAFFE: Actually, before we do that,
23 we've been going about an hour.

24 So, Dr. Almeroth, if you want to take a
25 break, we can take a quick break now or we can keep 09:15:31

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1 going. I'll leave it up to you.

2 THE WITNESS: We can go a little bit
3 longer.

4 BY MR. JAFFE:

5 Q Okay. Let's turn to Exhibit 1, which is 09:15:39
6 the '206 Patent.

7 A Okay.

8 Q Let me know when you're there.

9 A I got it.

10 Q I'm looking first at the first page of the 09:16:05
11 patent. The first page of the patent.

12 A Okay. I got it up.

13 Q There's a figure at the bottom.

14 Do you see that?

15 A Yeah. 09:16:15

16 Q What does that figure show?

17 A Let's see. I think there's probably a
18 portion of the specification that does a pretty good
19 job of describing what it does.

20 Let me go find that for you. 09:16:31

21 So it's figure 3A in the patent and then
22 that's described in the specification. At least
23 under the description of the drawings, it says:

24 "It provides an illustration

25 of one Zone Scene where the left 09:16:58

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1 column shows the starting zone
2 grouping. All zones are
3 separate. The column on the
4 right shows the affects of
5 grouping the zones to make a
6 group of three zones named after
7 morning."

09:17:07

8 Does -- what's shown here on the front --
9 the figure on the front of the '206 Patent, does it
10 show a Zone Scene?

09:17:24

11 MR. RICHTER: Object to the form.

12 THE WITNESS: It shows a representation of
13 what a Zone Scene would be.

14 BY MR. JAFFE:

15 Q Where does it show a Zone Scene?

09:17:39

16 A So the representation of the Zone Scene is
17 depicted pictorially as the combination of the
18 bedroom and den and dining room.

19 Q Does what's shown here on the face page of
20 '206 Patent, and as you noted, there's a copy of
21 figure 3A.

09:18:04

22 Does it show a zone configuration?

23 MR. RICHTER: Object to the form.

24 THE WITNESS: So there's quite a bit of

25 opinion in the reply declaration around what a zone

09:18:15

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1 configuration is as compared to a Zone Scene. I
2 think one way kind of -- let me -- there's a couple
3 sentences I think that do a pretty good job of
4 distinguishing those to -- let me pull that up.

5 So I refer you to kind of paragraph 68, 69 09:19:35
6 and 70. It goes on from there. I think one of the
7 opinions that is in paragraph 72 where when it's
8 talking about a zone configuration, often the
9 patents use the term "file" and that typically
10 refers to -- let's see. 09:19:54

11 The idea that the zone configuration -- I'm
12 reading from the middle of paragraph 72 -- would be
13 the kinds of things that are maintained or sort of
14 memory of the zone player in the form of a file and
15 transmitted from time to time into a controller 09:20:26
16 device.

17 So there can be some sort of -- as an
18 example, some kind of configuration data that might
19 be stored in a file that's then ultimately used to
20 create the kind of user interface representation 09:20:41
21 that's shown here.

22 But the underlying configuration would be
23 more of the type of like data that represents what
24 that Zone Scene would be.

25 /// 09:21:04

1 BY MR. JAFFE:

2 Q I appreciate all that answer. I want to
3 ask my question again.

4 Does figure 3A show a zone configuration?

5 MR. RICHTER: Object to the form. 09:21:14

6 THE WITNESS: I would give you the same
7 answer.

8 BY MR. JAFFE:

9 Q I just reviewed your other answer. I don't
10 see a response to whether it includes a zone 09:21:28
11 configuration or not. Sorry if I'm missing it.
12 Maybe I'll try one more time.

13 Does -- figure 3A, does it show a zone
14 configuration?

15 MR. RICHTER: Object to the form. 09:21:41

16 THE WITNESS: I thought my answer was
17 responsive.

18 But I think as part of that answer what I
19 pointed to was examples of what -- or an example of
20 what the zone configuration data could be, or what 09:21:51
21 the zone configuration could be, and then ultimately
22 that the user interface was kind of the
23 representation of that zone configuration.

24 BY MR. JAFFE:

25 Q Where in figure 3A is the zone 09:22:06

1 configuration?

2 MR. RICHTER: Object to the form.

3 THE WITNESS: I don't understand that

4 question. I don't think that figure 3A is something

5 that you would look at and say okay, there is, for 09:22:19

6 example, a zone configuration file, or a zone

7 configuration that there will be something that you

8 would point to.

9 As I think I testified to a second ago, you

10 can create a visual representation of both the scene 09:22:35

11 and what's in the zone configuration file and

12 display it visually. I don't think that that's --

13 well, difficult concept to understand the idea. You

14 might have a file of data and that you can represent

15 it visually. 09:23:02

16 BY MR. JAFFE:

17 Q Do you consider a zone configuration and a

18 zone configuration file synonymous?

19 MR. RICHTER: Object to the form.

20 THE WITNESS: I believe -- I don't know 09:23:19

21 that I've offered that particular opinion.

22 Somewhere around paragraph 72 in the reply there

23 might be something along those lines, but I would

24 have to go through the declaration to see if I say

25 something specific like that. 09:23:34

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1 BY MR. JAFFE:

2 Q What's the difference between a zone
3 configuration and a zone configuration file?

4 MR. RICHTER: Object to the form;
5 foundation, scope. 09:23:41

6 THE WITNESS: I don't recall offering an
7 opinion that they're the same. I would have to look
8 through the declaration and see if you want me to
9 try and answer that question.

10 BY MR. JAFFE: 09:23:52

11 Q Claim 1 of the '206 Patent, for example,
12 does not include the phrase "zone configuration
13 file"; correct?

14 A That's correct. I don't think it does.

15 Q It does include the phrase "zone
16 configuration"; correct? 09:24:05

17 A Yes.

18 Q Is there a difference between a zone
19 configuration and a zone configuration file?

20 MR. RICHTER: Object to the form. 09:24:18

21 THE WITNESS: Let me go look at my
22 declaration and see.

23 So I think the closest that I come to on
24 this question is the sentence in the middle of
25 paragraph 72. It says, in part: 09:24:51

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1 "A precedent would have
2 understood this teaching to
3 convey the notion of zone
4 configuration, being maintained
5 or stored in the memory of the 09:25:03
6 zone player in the form of a file
7 and transmitted from time to time
8 to a controller device, which
9 confirms the POSITA's
10 understanding that the claim term 09:25:14
11 zone configuration refers to
12 configuration data."

13 So I think as you accurately pointed out,
14 the claim doesn't use the term "zone configuration
15 file," but the zone configuration is configuration 09:25:27
16 data that certainly may be stored in a file, as an
17 example.

18 BY MR. JAFFE:

19 Q I think we can agree that zone
20 configuration and zone configuration file are two 09:25:46
21 different phrases; correct?

22 A They are different words.

23 Q Do they have different meaning?

24 MR. RICHTER: Object to the form.

25 /// 09:26:00

1 BY MR. JAFFE:

2 Q In the context of the Zone Scene Patents,
3 just to anchor that properly?

4 MR. RICHTER: Objection; form, scope.

5 THE WITNESS: For two reasons, can you 09:26:14
6 repeat the question?

7 BY MR. JAFFE:

8 Q Sure.

9 Do the phrases zone configuration and zone
10 configuration files have different meaning in the 09:26:24
11 context of the Zone Scene Patents?

12 MR. RICHTER: Same objections.

13 THE WITNESS: I don't believe I've taken a
14 position as to what the meaning of at least zone
15 configuration file would be. I think in a general 09:26:41
16 sense there was an understanding of what zone
17 configuration is and a zone configuration file can
18 be something that's different.

19 BY MR. JAFFE:

20 Q What's an example of a zone configuration? 09:26:53

21 MR. RICHTER: Object to the form;
22 foundation.

23 THE WITNESS: I'm not sure what you're
24 asking.

25 Do you want -- I don't understand if your 09:27:04

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1 question is asking for, say, specific syntax of how
2 configuration information might be stored within a
3 zone configuration or how it might be represented,
4 or exactly what you're asking.

5 BY MR. JAFFE: 09:27:23

6 Q I'm asking: Can you provide an example of
7 a zone configuration?

8 MR. RICHTER: Same objections.

9 THE WITNESS: And the same answer still
10 applies. I'm not sure what you're asking for. 09:27:33

11 BY MR. JAFFE:

12 Q Well, maybe we'll break that down.

13 Is the difficulty the word "example" or
14 "zone configuration"?

15 A The difficulty is "example." Let's start 09:27:47
16 with that.

17 Q Okay. Are you familiar with providing
18 examples of things?

19 A Yes.

20 Q Okay. So in the context that you're 09:27:57
21 familiar with of providing examples, can you provide
22 an example of a zone configuration?

23 MR. RICHTER: Object to the form, scope.

24 THE WITNESS: Usually there's context for
25 what kind of example you want. That's the -- what I 09:28:11

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1 expressed uncertainty about what you mean by an
2 example.

3 If you ask if a chocolate chip cookie is an
4 example of a cookie, then it's easy to answer yes to
5 that.

09:28:27

6 If you're asking for an example of zone
7 configuration, are you asking -- are you looking for
8 syntax? Are you looking for what kinds of values
9 could be stored in it?

10 I'm not sure what kind of answer you're
11 looking for in your question.

09:28:39

12 BY MR. JAFFE:

13 Q Sure.

14 In the -- I'll ask it more specifically.

15 In the context of the Zone Scene Patents,
16 can you provide an example of a zone configuration?

09:28:49

17 MR. RICHTER: Same objections.

18 THE WITNESS: It's going to be the same
19 answer. I don't know what kind of example you're
20 asking about.

09:29:02

21 BY MR. JAFFE:

22 Q Any example?

23 A If you're asking me to, as an example, tell
24 you the syntax for how the information in a zone
25 configuration would be codified, I don't have an

09:29:24

1 example. It's not a question I try to answer in
2 forming the opinions that are in the declaration.

3 Q Can you provide any examples of information
4 or data that would be included in a zone
5 configuration in the context of the Zone Scene
6 Patents?

09:29:45

7 MR. RICHTER: Object to the form, scope.

8 THE WITNESS: Let's see.

9 I don't see anything where I identify
10 specific examples of information that might be
11 contained in the zone configuration. Paragraph 73
12 towards the end has kind of an, IE, data that
13 characterizes one or more particular predefined
14 previously saved groupings of zone players.

09:31:26

15 So I think that that is -- that kind of
16 gets to an example of information that would be
17 stored in the zone configuration.

09:31:48

18 I thought there was some point there was
19 some more particular types of information that were
20 identified maybe somewhere in the specification. I
21 would have to go and look.

09:32:11

22 BY MR. JAFFE:

23 Q What's an example of data that
24 characterizes one or more particular predefined
25 previously stated grouping of zone players?

09:32:31

1 MR. RICHTER: Object to the form; scope.

2 THE WITNESS: So beyond that description, I

3 don't think I've tried to come up with examples of

4 ways in which that information could be manifested

5 is what would appear in a zone configuration. 09:32:43

6 BY MR. JAFFE:

7 Q I understood you may have not tried to come

8 up with one previously.

9 Can you come up with one now?

10 MR. RICHTER: Same objections. 09:32:59

11 THE WITNESS: I haven't tried to come up

12 with an example. I would have to give it some

13 thought.

14 BY MR. JAFFE:

15 Q Sitting here today, you can't give me an 09:33:14

16 example of what -- let me just read this right.

17 You can't give me an example of data

18 characterizes one or more particular predefined,

19 prescribed groupings of zone players; true?

20 MR. RICHTER: Same objections. 09:33:30

21 THE WITNESS: I don't think I've done it in

22 the context of the declaration and I would have to

23 give some thought on what that might look like.

24 I haven't done it so far and I'm not really

25 prepared to just come up with an example on the fly. 09:33:44

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1 BY MR. JAFFE:

2 Q Can you give me an example of a Zone Scene?

3 MR. RICHTER: Same objections.

4 THE WITNESS: I think the best that I could

5 do would be to point to portions in the 09:34:05

6 specification, probably the ones that I've cited to

7 that refer to what a Zone Scene is.

8 We've talked about figure 3A as an example

9 of what a Zone Scene is and kind of how the

10 specifications characterize. That is probably the 09:34:23

11 place that I would start.

12 BY MR. JAFFE:

13 Q What information is necessarily -- is

14 necessary to be a Zone Scene?

15 MR. RICHTER: Object to the form. 09:34:41

16 THE WITNESS: As to what information is

17 necessary, I think the best that I can do is point

18 you to, for example, the plain language. It says:

19 "Each Zone Scene identifying

20 a group configuration associated 09:35:07

21 with two or more of the plurality

22 of independent playback devices."

23 I think that's what's required in a Zone

24 Scene.

25 /// 09:35:22

1 BY MR. JAFFE:

2 Q Let's go to claim 1 of the '206 Patent.

3 Let me know when you're there.

4 A I'm there. I was just reading from it.

5 Q Okay. Great. 09:35:31

6 Claim 1 states, in part, quote:

7 "Wherein the zone

8 configuration characterizes one

9 or more Zone Scenes." Then it

10 keeps going from there. 09:35:44

11 Do you see that?

12 A I do.

13 Q Can you give me an example of a zone

14 configuration characterizing one or more zone

15 scenes? 09:35:52

16 MR. RICHTER: Object to the form; scope.

17 THE WITNESS: Again, if you mean specific

18 examples, I haven't tried to think of an instance

19 of, for example, a hypothetical system that would

20 have information in what would be considered a zone 09:36:03

21 configuration that would be sufficient to meet the

22 requirements of the claim.

23 BY MR. JAFFE:

24 Q The claim goes on. It says -- and I'm

25 skipping a little bit. 09:36:29

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1 Then the next clause, it says, quote:

2 "Cause a selectable
3 indication of the received zone
4 configuration to be displayed."

5 Do you see that? 09:36:38

6 A I do.

7 Q Can you give an example of what a
8 selectable indication of the received zone
9 configuration to be displayed, how that would -- how
10 would you know if you had that or not? 09:36:51

11 MR. RICHTER: Object to the form; scope.

12 THE WITNESS: With respect to applying that
13 claim language to determine whether or not the
14 limitation is present, that's not an exercise I'm
15 undertaking as part of this declaration and I would 09:37:10
16 have to give it some thought.

17 BY MR. JAFFE:

18 Q Okay. Another term in claim 1 is group
19 configuration.

20 Do you see that? 09:37:23

21 A I do.

22 Q Can you give me an example of a group
23 configuration in the context of the claims of the
24 '206 Patent?

25 MR. RICHTER: Same objections. 09:37:34

1 THE WITNESS: I think it would be almost
2 the same answer with respect to coming up with, as
3 you termed it, an example that would demonstrate how
4 a hypothetical system would meet the limitation.

5 That's not something I tried to do as part of this 09:37:53
6 declaration.

7 BY MR. JAFFE:

8 Q So it's fair to say that sitting here
9 today, you can't provide me a single example of a
10 group configuration? 09:38:05

11 MR. RICHTER: Object to the form, and to
12 the extent it mischaracterizes his testimony.

13 THE WITNESS: To the extent that your
14 question is asking for a specific example of what
15 the syntax would look like of something that would 09:38:22
16 be a group configuration, that's not something I
17 tried to do as part of my declaration and I would
18 have to give it some thought.

19 BY MR. JAFFE:

20 Q Is it fair to say that, sitting here today, 09:38:38
21 you can't provide me with a single example of a zone
22 configuration?

23 MR. RICHTER: Same objections; scope.

24 THE WITNESS: I think it would be the same
25 answer with respect to applying the proposed 09:38:48

1 constructions to give a specific example and what
2 the syntax of something might be that would look
3 like a zone configuration. It's not something I
4 tried to do as part of this declaration.

5 BY MR. JAFFE: 09:39:11

6 Q Sitting here today, you can't provide me
7 with a single example of a Zone Scene; correct?

8 MR. RICHTER: Same objections.

9 THE WITNESS: It would be the same kinds of
10 answers. Instead of zone configuration, it would be 09:39:23
11 with respect to the Zone Scene.

12 BY MR. JAFFE:

13 Q How does one tell the difference between a
14 zone configuration and a group configuration?

15 MR. RICHTER: Object to the form. 09:39:50

16 THE WITNESS: So the best that I can tell
17 you is with respect to what I describe in the
18 declaration. So, I mean, first of all, I think the
19 declaration goes through and talks about zone
20 configuration in zone C and the relationship between 09:40:25
21 the two of those.

22 Now, with respect to where group
23 configuration plays a role, it's in the claim
24 language where each scene identifying a group
25 configuration associated with two or more of the 09:40:40

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1 plurality of independent playback devices.

2 And so it's -- the group configuration is
3 in conjunction with what the Zone Scene is doing, so
4 the zone configuration would be something different
5 than the Zone Scene identifying a group 09:41:00
6 configuration. Different from the perspective of,
7 again, the idea that the zone configuration is
8 what's pointed to, as an example, through a zone
9 configuration file and then it's the data that would
10 be used. 09:41:32

11 So it's a sentence I read before.

12 "The precedent would
13 understand the reference to a
14 file to refer to a specific
15 format, arrangement or collection 09:41:40
16 of data stored in these examples
17 in the memory of a zone player."

18 And then it goes on from there. So I am
19 not sure I understand the question of how you would
20 tell the difference. You would be looking at two 09:41:56
21 different things. You would be looking at the Zone
22 Scene identifying a group configuration, then you
23 would have the zone configuration, for example, in
24 the file.

25 /// 09:42:13

1 BY MR. JAFFE:

2 Q So your last answer you said you're looking
3 at two different things.

4 What things are you looking at?

5 A Well, I think it was more than that. And, 09:42:20
6 again, I clarified what I said in my previous answer
7 about looking at two different things.

8 I think you're looking at two different
9 types of information that could represent, for
10 example, the Zone Scene. Again, that's kind of the 09:42:37
11 Zone Scene itself, which is kind of a logical
12 representation that you might see represented in,
13 for example, user interface, then you would have the
14 zone configuration, which would be the kind of data
15 that might be stored in a file. 09:42:55

16 So just as a general example, to kind of
17 show the difference between those two, you can have
18 some kind of visual representation of a series of
19 menus and those menus -- for example, in 3A where
20 you depicted a grouping of zones or zone players 09:43:13
21 would be a Zone Scene, you would see the visual
22 representation of that Zone Scene and then the zone
23 configuration would be the underlying data that
24 would provide the representation itself.

25 So, for example, you can have a program 09:43:35

1 read the zone configuration and aid the visual
2 representation that was displayed to the user based
3 on the information that was in that zone
4 configuration.

5 Q In the context of the '206 Patent, are zone 09:43:56
6 configurations and group configurations the same
7 thing or are they different?

8 MR. RICHTER: Object to the form.

9 Yeah. Object to the form.

10 THE WITNESS: I don't think I've taken the 09:44:17
11 position that they are the same. In fact, I think I
12 disagreed with Dr. Kyriakakis that they are the
13 same, that they mean the same thing.

14 BY MR. JAFFE:

15 Q Right. 09:44:28

16 I know unfortunately we were talking over
17 each other a little bit, which is probably my fault.
18 Let me repeat my question to help provide context.

19 In the context of the '206 Patent, are zone
20 configurations and group configurations the same 09:44:41
21 thing or are they different?

22 MR. RICHTER: Same objections.

23 THE WITNESS: They are not the same thing.
24 I think that they're referring to different concepts
25 within the claim language. Whether or not 09:44:58

1 ultimately the information that it represents could
2 be the same thing would be a different kind of
3 question.

4 But at least as an example of what a zone
5 configuration could be, for example, is a file with 09:45:17
6 the information that represents what the Zone Scene
7 is and then the Zone Scene identifying a group
8 consideration, I think that those are two different
9 things.

10 BY MR. JAFFE: 09:45:36

11 Q You said in your answer, "Whether or not
12 ultimately the information that it represents could
13 be the same thing would be a different kind of
14 question."

15 What did you mean by that? 09:45:47

16 A So you can have a Zone Scene. So, for
17 example, if you look at 3A where it's describing a
18 Zone Scene graphically, and there would be an
19 underlying zone configuration for that Zone Scene,
20 then with respect to the Zone Scene identifying a 09:46:05
21 group configuration associated with two or more
22 plurality of independent playback devices where I
23 think -- let's see.

24 So that group configuration is referring to
25 a grouping of zone players for synchronize playback 09:46:27

1 and that comes from paragraph 64 of deposition
2 Exhibit 5. Then the zone configuration could be the
3 data that represents that grouping of zone players
4 that are being grouped for synchronous playback.

5 So, again, it's kind of this idea that you 09:46:54
6 have the machine related representation of the zone
7 configuration, that's what the zone configuration
8 could be, for example. And then you have the Zone
9 Scene identifying a group configuration and it goes
10 on from there. 09:47:16

11 And so that's ultimately kind of the
12 logical construct of how the different zone players
13 are grouped together.

14 Q What are the criteria that a person with
15 ordinary skill would use to differentiate between 09:47:29
16 zone configurations and group configurations?

17 MR. RICHTER: Object to the form.

18 THE WITNESS: Again, with respect to
19 differentiating between the two, I don't think that
20 that's a requirement in terms of the claim. 09:47:45

21 In terms of some rubric or model of what
22 questions you would ask that would differentiate
23 between the two, that's not something that I tried
24 to put together. I would have to give some thought
25 as to whether even that would be something that -- 09:48:00

1 well, I mean, if you ask me to do it, I would have
2 to give it some thought. I'm not sure how that
3 would be relevant to the claim language.

4 BY MR. JAFFE:

5 Q Okay. 09:48:18

6 THE WITNESS: I'm sure we're not at a
7 transition point. We'll be on this for a while,
8 maybe now would be a good time for a break.

9 MR. JAFFE: Now is perfectly fine.

10 THE VIDEOGRAPHER: Taking us off the record 09:49:03
11 here. One moment.

12 We're off the record at 9:49 a.m.

13 (Whereupon, a recess was held
14 from 9:49 a.m. to 10:03 a.m.)

15 THE VIDEOGRAPHER: We're back on the record 10:02:59
16 at 10:03 a.m.

17 MR. JAFFE: Welcome back.

18 THE WITNESS: Thank you.

19 BY MR. JAFFE:

20 Q I want to turn to your opening declaration 10:03:22
21 which I marked as Exhibit 4, and in particular,
22 let's go to paragraph 43.

23 A Okay.

24 Q So here in paragraph 43, you describe what
25 a Zone Scene is. 10:03:52

1 Do you see that?

2 A Are you referring to the first sentence?

3 Q Yes.

4 A I wouldn't interpret that as saying what a

5 Zone Scene is. 10:04:19

6 Q You said here:

7 "As disclosed in the '206

8 Patent, a mechanism is provided

9 to place 'zone players' into a

10 'Zone Scene,' which is a 10:04:29

11 predefined grouping of 'zone

12 players' that can first be saved

13 by a user and can then be invoked

14 in order to cause the defined

15 grouping of 'zone players' to 10:04:42

16 become configured for synchronous

17 playback of media."

18 Do you see that?

19 A I do see that sentence.

20 Q When you use the word "is," was that 10:04:50

21 inaccurate at the time?

22 A I think what that is providing is a

23 description as to what a Zone Scene is with respect

24 to how that term should be construed as part of

25 claim construction. I think that's a separate 10:05:13

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1 process. I'm just generally describing kind of a
2 high level what it is.

3 Q Where did you get this kind of high level
4 what it is description of a Zone Scene from?

5 A It should be based on the sites that are 10:05:34
6 provided there.

7 Q Well, why don't we take a look at those.

8 Now, I think you have your declaration and
9 the '206 Patent. I'm hoping we can have them side
10 by side or you can have them side by side either in 10:05:49
11 paper or electronically so we can flip them back and
12 forth.

13 Is that okay?

14 A Yep. I have them side by side.

15 Q Okay. The first thing that you cite is the 10:06:01
16 abstract.

17 A Yes.

18 Q So does the abstract describe a predefined
19 grouping?

20 A I think the abstract in the context of the 10:06:24
21 overall patent and person in the skill of the art
22 would understand when it's describing the ability of
23 the user to group some of the players according to a
24 theme or scene.

25 Q In your opinion, does a Zone Scene require 10:07:40

1 grouping zone players according to a theme or scene?

2 MR. RICHTER: Object to the form.

3 THE WITNESS: I think that gets into the

4 construction for what a Zone Scene should be and

5 ultimately I don't think I've taken a position as to 10:08:00

6 which of the constructions is accurate.

7 BY MR. JAFFE:

8 Q What is a scene as written here in the

9 abstract?

10 MR. RICHTER: Object to the form, scope. 10:08:16

11 THE WITNESS: I don't think I've tried to

12 define that term. Maybe there's some further

13 description of what that term is in the context of

14 the Zone Scene patents.

15 BY MR. JAFFE: 10:08:30

16 Q What is a theme?

17 MR. RICHTER: Same objection.

18 THE WITNESS: It's the same answer. I

19 haven't tried to come up with some definition off

20 the top of my head. I mean, sorry, I haven't tried 10:08:37

21 to come up with some definition in the declaration

22 and so, sitting here right now, I don't have one

23 just off the top of my head for what the definition

24 of that term should be.

25 /// 10:08:53

1 BY MR. JAFFE:

2 Q Can you give me an example of a theme as
3 that term is used in the abstract of the '206
4 Patent?

5 MR. RICHTER: Same objection. 10:08:59

6 THE WITNESS: Again, I don't think that's a
7 question I tried to answer in the declaration.
8 There might be something in the specification. I
9 can review it, if you like.

10 BY MR. JAFFE: 10:09:13

11 Q Sure.

12 My question is: Can you, Dr. Almeroth,
13 sitting here today, provide me an example of a
14 theme, as that term is used in the abstract of the
15 '206 Patent?

10:09:27

16 MR. RICHTER: Same objection.

17 THE WITNESS: I don't have one that comes
18 to mind off the top of my head. I would have to
19 give it some thought and either go look at the spec
20 or do some work. It's not something I have
21 memorized.

10:09:41

22 BY MR. JAFFE:

23 Q Okay. So the next thing you cite in
24 paragraph 43 of your opening declaration is column
25 3, lines 5 through 21.

10:10:07

1 So why don't we turn there right now. If
2 you want to take a minute to read it, go ahead and
3 let me know when we can -- when you are ready.

4 A It's a little bit longer. I skimmed it to
5 see what it said. I may need to reread it based on 10:10:33
6 what your question is.

7 Q Sure.

8 So first question is: Where does this talk
9 about a predefined grouping?

10 And by "this" I'm referring to column 3, 10:10:48
11 lines 5 through 21 of the '206 Patent.

12 MR. RICHTER: Object to the form.

13 THE WITNESS: I believe in the context of
14 where it's describing the grouping of players and
15 then the idea that the theme can be activated at any 10:11:26
16 time or a specific time, that those kind of temporal
17 relationships would be understood based on kind of a
18 context of the Zone Scene patents.

19 BY MR. JAFFE:

20 Q So you mentioned the word "theme." 10:11:47
21 What do you mean by "theme"?

22 A I'm just using the term as it appears in
23 the specification at column 3, line 11.

24 Q What is your understanding of what that
25 term means? 10:11:59

1 A I don't have a specific dictionary
2 definition that I could give you off the top of my
3 head. It's what the patent calls a theme.

4 Q What does the patent call a theme?

5 A At this point, in column 3, line 9 it says 10:12:16
6 a theme representing a group and configure the theme
7 with parameters pertaining to the selected players.

8 I think there's other discussions as to
9 what a theme is. I don't have those memorized and I
10 haven't really taken a position as to a definition 10:12:35
11 of what that term is.

12 Q Okay. Column 3, the portion that you cited
13 here, lines 5 through 21, it doesn't mention Zone
14 Scene; correct?

15 MR. RICHTER: Object to the form. 10:13:16

16 THE WITNESS: I think it speaks for itself,
17 whether or not those words appear. But ultimately I
18 think when you look at the words that are used here,
19 whether or not they're related to zone theme -- or
20 sorry, Zone Scene is a position that probably Sonos 10:13:40
21 takes.

22 BY MR. JAFFE:

23 Q Why did you cite this in support of your
24 description of what a Zone Scene is?

25 And by "this," I'm referring to column 3, 10:13:56

1 lines 5 through 21 of the '206 Patent?

2 A Because it's describing the idea of being
3 able to group players under the conditions described
4 here and that those are consistent with how the
5 patent describes what a Zone Scene is.

10:14:16

6 Q Can you group players without it being a
7 Zone Scene?

8 MR. RICHTER: Object to the form,
9 foundation, scope.

10 THE WITNESS: I'm not sure what context
11 you're asking. If you're asking in some sort of
12 hypothetical system, I'm not sure what the
13 constraints are in that hypothetical.

10:14:27

14 But the context for that hypothetical is --
15 I forget what I said exactly. Maybe the constraints
16 on that hypothetical.

10:15:00

17 BY MR. JAFFE:

18 Q Does what's written here at column 3,
19 lines 5 through 21 describe a Zone Scene?

20 MR. RICHTER: Object to the form; asked and
21 answered.

10:15:21

22 THE WITNESS: Can you repeat the question?

23 BY MR. JAFFE:

24 Q Does what's written here in column 3,
25 lines 5 through 21, describe a Zone Scene, and I'm

10:16:00

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1 referring to the '206 Patent in that citation?

2 A Yeah. I understand the question.

3 I think what it's describing is
4 functionality of the system that relates to placing
5 zone players into a Zone Scene. And so there are 10:16:22
6 aspects of what's described here that are consistent
7 with the characterization that I provided in
8 paragraph 43 of Exhibit 4.

9 Q Where in column 3, lines 5 through 21, does
10 this portion of the 206 specification describe a 10:16:44
11 Zone Scene?

12 MR. RICHTER: Object to the form.

13 THE WITNESS: Let me see if I can find
14 specific words.

15 I mean, I don't think what I was doing in 10:16:56
16 the declaration was trying to identify specific
17 words in the citation that would relate to a Zone
18 Scene specifically. It was more generally
19 describing the functionality of what the invention
20 is, what the mechanism is and that's the basis for 10:17:13
21 the citation here.

22 I mean, I can certainly look through it and
23 see, but I think generally the answer is the
24 description is with respect to the invention and
25 what it's directed to and it's the mechanism that 10:17:34

1 I'm summarizing in paragraph 43.

2 BY MR. JAFFE:

3 Q I appreciate that.

4 I'm going to ask my question again because

5 I'm not sure I actually got the answer. 10:17:45

6 Where in column 3, lines 5 through 21, does
7 this portion of the specification describe a Zone
8 Scene?

9 MR. RICHTER: Object to the form.

10 THE WITNESS: So maybe the way to answer it 10:18:00

11 is -- I thought I answered it previously, but that

12 this section is generally describing the mechanism

13 of placing zone players into a Zone Scene with

14 respect to specific sentences in this section that

15 you would use to define what a Zone Scene is. I 10:18:17

16 don't think that was the intent of paragraph 43.

17 And I think ultimately that gets into

18 portions of the specification that support the

19 different parties' constructions, which is not

20 something I was trying to support as part of 10:18:34

21 paragraph 43.

22 BY MR. JAFFE:

23 Q Can you identify any reference to a Zone

24 Scene, lines 5 through 21 of the '206 Patent?

25 MR. RICHTER: Object to form. 10:18:53

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1 THE WITNESS: Now I'm not sure what you're
2 actually asking.

3 So, for example, column 5 -- sorry.

4 Column 3, starting at line 5, it talks
5 about the system comprising a plurality of players, 10:19:07
6 each located in a zone. That's similar to the
7 language that says "predefined grouping of zone
8 players."

9 We talked about the question that doesn't
10 say predefined, but in the context of the 10:19:21
11 specification, what you're actually defining at that
12 point, that's part of the embodiment that's
13 described starting at column 3, line 5.

14 If that's a portion of the specification
15 that's responsive to your question, then I can go 10:19:38
16 through the rest of that and kind of tie it into the
17 characterization of what a Zone Scene is in
18 paragraph 43 of my declaration.

19 BY MR. JAFFE:

20 Q Let's go to the last citation in 10:20:04
21 paragraph 43 here, column 8, lines 24 through 36.
22 We're still in the '206 Patent.

23 Let me know when you're there,
24 Dr. Almeroth.

25 A I'm there. 10:20:21

1 Q So the first line that you cite is a
2 sentence that starts with "using" and ends with
3 "automatically effectuated." That's lines 24
4 through 28.

5 Do you see that? 10:20:40

6 A Yes.

7 Q Is that a definition of a Zone Scene?

8 MR. RICHTER: Object to the form; scope.

9 THE WITNESS: I don't think I've offered an
10 opinion as to whether or not this is a definition 10:20:55
11 for what a Zone Scene is. I think, again, that gets
12 into the construction.

13 If it's a definition, you almost seem to be
14 asking me the question of whether or not there's
15 lexicography here and those are all issues that I 10:21:11
16 don't believe I addressed in my declaration.

17 BY MR. JAFFE:

18 Q Would you agree that morning, afternoon and
19 gardens are examples of particular scenes?

20 MR. RICHTER: Object to the form. 10:21:30

21 BY MR. JAFFE:

22 Q Sorry. Let me start over.

23 Dr. Almeroth, would you agree that morning,
24 afternoon and gardens are example of particular
25 scenes as those terms are used in column 8, lines 24 10:21:44

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1 through 28 of the '206 Patent?

2 MR. RICHTER: Object to the form; scope.

3 THE WITNESS: The best that I can say is if

4 you look at the full sentence, it says that a theme

5 or a Zone Scene, and then it goes on to be 10:22:03

6 configured in a particular scene and then it just

7 says, EG, morning, afternoon or garden.

8 As to the implication of that sentence to

9 the parties' constructions, that's not a position

10 that I've offered an opinion on. 10:22:21

11 BY MR. JAFFE:

12 Q So where in column 8, lines 24 through 36

13 is the requirement of a predefined grouping, as you

14 put in paragraph 43 of your declaration?

15 MR. RICHTER: Same objection. 10:22:53

16 THE WITNESS: Again, I think the idea here

17 is it's describing some of the aspects of a theme or

18 a Zone Scene. And with respect to the grouping, or

19 the predefined grouping of zone players, it's in the

20 context of the entire part of the specification that 10:23:12

21 separately defines the actions of defining that

22 group versus invoking.

23 And so you predefine the group as distinct

24 from invoking. And then based on the description of

25 the problem that you're trying to solve, would lead 10:23:34

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1 a person of skilled art to understand this is really
2 referring to predefined groupings of zone players.

3 BY MR. JAFFE:

4 Q You would agree that the citations that you
5 provided in paragraph 43 for what a Zone Scene is, 10:23:52
6 that none of those citations mentioned a predefined
7 grouping; correct?

8 MR. RICHTER: Object to the form.

9 THE WITNESS: Sorry. I don't think it uses
10 the word "predefined," but I think it describes the 10:24:06
11 concept, especially in the context of what the rest
12 of the specification describes.

13 I think those are illustrative citations
14 that demonstrate the concept.

15 BY MR. JAFFE: 10:24:26

16 Q So in this part of the specification you
17 cited, there's a reference at column 8, lines 29 to
18 a morning zone scene, slash, configuration.

19 Do you see that?

20 A I do. 10:24:39

21 Q In the context of a morning Zone Scene, as
22 described here, what would be included in a group
23 configuration, as that term is used in claim 1 of
24 the 206?

25 MR. RICHTER: Object to the form, scope. 10:24:56

1 THE WITNESS: So first, turning to the
2 claim language and looking, for example, at claim 1,
3 you would have a Zone Scene identifying a group
4 configuration associated with two or more plurality
5 of independent playback devices. 10:25:20

6 So that Zone Scene is kind of the logical
7 representation that would be distinct from the
8 configurations would be the description of that Zone
9 Scene and identifying a group configuration. So the
10 group configuration is just the grouping of zone 10:25:38
11 players for synchronous playback.

12 So that would be where it describes the
13 Zone Scene, the kind of information that would be
14 what the Zone Scene is, and then --

15 BY MR. JAFFE: 10:25:58

16 Q So --

17 A -- the zone configuration would be
18 something different.

19 Q Sorry. I apologize. I didn't mean to
20 interrupt. 10:26:12

21 Okay. So we have the morning Zone Scene.
22 What information would be included in the
23 morning Zone Scene?

24 MR. RICHTER: Object to the form, scope.

25 THE WITNESS: So as to what specific 10:26:23

1 information would be included in that example, I
2 don't think that the patent says specifically. So
3 it would really be for the morning Zone Scene, if
4 you were attempting to use that as an example as it
5 relates to claim 1, that Zone Scene would have to 10:26:49
6 identify a group configuration associated with two
7 or more of the plurality of independent playback
8 devices. So as to what examples of information
9 would be sufficient to meet the limitation for
10 claim 1, I don't have specific examples of syntax 10:27:07
11 beyond just the plain language of the claim.

12 BY MR. JAFFE:

13 Q Okay. And I suspect your answers may be
14 similar, but I want to run through it just to make
15 sure. 10:27:24

16 So for the morning Zone Scene/configuration
17 referred to in column 8, line 29 of the '206 Patent,
18 what would be included in the group configuration
19 for that morning Zone Scene described in the
20 specification? 10:27:40

21 MR. RICHTER: Same objections.

22 THE WITNESS: So if, again, you're asking
23 to apply the claim language to that example, the
24 claim language described the type of information
25 identifying group configuration associated with two 10:28:01

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1 or more of the plurality of independent playback
2 devices.

3 And that group configuration, the type of
4 information is really described at the top of
5 column 5 around line 4. So the idea that it's 10:28:16
6 information about the grouping of zone players for
7 synchronous playback is the type of group
8 configuration information that would be required as
9 part of describing what the Zone Scene is, at least
10 in the context of claim 1 of the '206 Patent. 10:28:39

11 BY MR. JAFFE:

12 Q Does the group configuration require a list
13 of all the zone players in the group?

14 MR. RICHTER: Same objection.

15 THE WITNESS: I don't see where the claim 10:28:52
16 gets into that specific of a requirement as to
17 whether or not that could meet the limitation. I
18 would have to give it some thought.

19 BY MR. JAFFE:

20 Q Would the name of a group be a group 10:29:06
21 configuration?

22 MR. RICHTER: Same objection.

23 THE WITNESS: I think it's the same answer.
24 I think you're into the context of applying the
25 claim language and I'm not offering opinions on how 10:29:17

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1 to apply the claim language for purposes of these
2 declarations.

3 BY MR. JAFFE:

4 Q What about an ID number for a group, would
5 that be a group configuration or a zone 10:29:34
6 configuration, for that matter?

7 MR. RICHTER: Object to the form; scope,
8 foundation.

9 THE WITNESS: Same answer.

10 BY MR. JAFFE: 10:29:45

11 Q Just for the record, what is that answer?

12 A It's the one that I just provided for the
13 previous question.

14 Essentially it gets to applying the claim
15 language, which is not something I tried to do as 10:29:53
16 part of this declaration, or these two declarations.

17 Q Going back to paragraph 43, you refer to a
18 Zone Scene as something that is saved.

19 Do you see that?

20 A I see that. 10:30:30

21 Q What do you mean by "saved"?

22 A So this part of at least the mechanism to
23 provide -- to place zone players into a Zone Scene
24 would relate to, for example, the zone
25 configuration. 10:30:47

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1 So the idea that you could have some
2 representation of, say, for example, machine
3 readable file that would contain what the predefined
4 group of zone players were and then to be able to
5 save that, for example, in a file. 10:31:03

6 There's some further discussion of that
7 functionality in Exhibit 5 around paragraph -- I
8 believe it's the same paragraph 72 we talked about
9 earlier.

10 Yeah, that's right. 10:31:33

11 Q What information is required to be in a
12 saved Zone Scene?

13 MR. RICHTER: Object to the form; scope.

14 THE WITNESS: I haven't tried to define the
15 term at a level where there's a specific list of 10:32:19
16 information that I think is required.

17 BY MR. JAFFE:

18 Q How would one of ordinary scope determine
19 whether what they're looking at is a Zone Scene or
20 not? 10:32:35

21 MR. RICHTER: Object to the form.

22 THE WITNESS: So with respect to figuring
23 out whether or not the limitation is met, first as
24 it relates to Zone Scene, there's language in the
25 claim that says a Zone Scene identifying a group 10:32:50

1 configuration associated with two or more of the
2 plurality of independent playback devices.

3 So I think a person of skill in the art
4 would look at what's required there, look at what
5 potentially would be a Zone Scene and compare the 10:33:07
6 requirements of the claim language against the
7 characteristics of whatever they're trying to
8 assess, and do the comparison with the caveat that
9 there is a disagreement among the parties as to what
10 the construction for Zone Scene is. 10:33:29

11 So depending on what that construction is,
12 you would use either parties' construction and the
13 information that's described as to what a Zone Scene
14 is to determine whether or not you have a Zone
15 Scene. 10:33:44

16 BY MR. JAFFE:

17 Q I would like to go to your reply
18 declaration that we marked as Exhibit 5.

19 A Okay. Got it.

20 Q If you can turn to paragraph 56. 10:34:43

21 A Okay.

22 Q Let me know when you're there.

23 A I'm there.

24 Q Okay. So paragraph 56 -- and I'll just
25 read for the record the one sentence in the 10:35:06

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1 paragraph says, quote:

2 "Zone Scene patents are
3 directed to a new mechanism for
4 grouping zone players together
5 for synchronous playback that is 10:35:14
6 intended to advance upon Sonos's
7 prior grouping mechanism."

8 Do you see that?

9 A I do see that.

10 Q So you use the word "new." 10:35:23

11 What is your basis for testifying that this
12 is a new mechanism for grouping zone players
13 together for synchronous playback?

14 A At least at this point as part of claim
15 construction, the idea that claims were granted by 10:35:39
16 the patent office, and so are presumed to be valid.

17 Q So a part from the presumption of validity,
18 the word "new" doesn't -- you're not offering any
19 opinions on that?

20 A At least with respect to the validity of 10:35:53
21 the claims, say, for example, over anticipation and
22 obviousness, I have not rendered opinions, so this
23 is based on that presumption.

24 Q And the end of the sentence refers to
25 Sonos's prior grouping mechanism. 10:36:10

1 Do you see that?

2 A Yes.

3 Q What is or was Sonos's prior grouping
4 mechanism?

5 A So I think that refers to -- in the 10:36:20
6 background of the invention, I think there's a
7 general description in the background of the
8 invention. And I can go and find it, but also I
9 believe that I have opined on prior Sonos patents
10 that deal with grouping and synchronization. 10:36:47

11 Q So what's your understanding of Sonos's
12 prior grouping mechanism?

13 MR. RICHTER: Object to the form.

14 THE WITNESS: I'm not sure what you're
15 referring to. 10:37:06

16 I mean, there's earlier patents that Sonos
17 has on grouping and synchronization. It's generally
18 referring to the mechanisms within their patents and
19 also in their products.

20 BY MR. JAFFE: 10:37:28

21 Q Sonos, before the Zone Scene patents were
22 filed, had released a system publically that allowed
23 you to group speakers and playback in synchrony;
24 correct?

25 MR. RICHTER: Object to the form; assumes 10:37:42

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1 facts, scope.

2 THE WITNESS: While I once testified about
3 early Sonos products and what their capabilities
4 were, I haven't reviewed that testimony or those
5 opinions in either preparing this declaration or 10:38:00
6 preparing for this deposition, so I would have to go
7 back and review any of those opinions, to the extent
8 that's what you're asking about.

9 BY MR. JAFFE:

10 Q I'm just following up on what you wrote in 10:38:15
11 paragraph 56 saying that the Zone Scene patents were
12 intended to advance upon Sonos's prior grouping
13 mechanism.

14 The prior grouping mechanism included the
15 ability to group speakers and playback synchrony in 10:38:30
16 group; right?

17 MR. RICHTER: Object to the form.

18 THE WITNESS: So I think then that may be
19 the answer to your question is the first part of
20 paragraph 57, that prior grouping mechanism required 10:38:43
21 a user to select each zone player to be included in
22 an ad hoc manner one by one, and then that's the
23 description from the provisional, as well as that
24 background portion of the '206 Patent that I had
25 mentioned. 10:39:05

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1 BY MR. JAFFE:

2 Q Right.

3 And I guess zooming out a little bit,

4 though, Sonos's prior grouping mechanism included

5 the ability to group; right? 10:39:15

6 That's why you referred to it as a grouping

7 mechanism; right?

8 MR. RICHTER: Object to the form.

9 THE WITNESS: It was an ability to group as

10 characterized by that first sentence in 57. So it 10:39:29

11 wasn't just any and every kind of grouping, it was a

12 specific type of grouping as set forth in those

13 citations I've described here.

14 BY MR. JAFFE:

15 Q How did the Zone Scene patents advance upon 10:39:41

16 Sonos's prior grouping mechanism?

17 A I think that goes on into the middle of the

18 paragraph 57 that this prior grouping mechanism

19 could be efficient and time consuming in some

20 situations. So there's a citation in the '206 10:40:00

21 Patent.

22 And then maybe this is even more responsive

23 to your question, in paragraph 58 that talks about

24 how to address the inefficiency and then --

25 generally I don't read my declaration into the 10:40:16

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1 record -- but it goes into those details in
2 paragraph 58.

3 Q Let's turn to paragraph 58 and the second
4 line. I'm not going to read the whole thing. It
5 refers to pre-create and pre-saved a predefined 10:40:33
6 group, then it continues on.

7 That's three instances of the word "pre,"
8 or prefix "pre."

9 Why did you include so many pre's in that
10 description there? 10:40:49

11 MR. RICHTER: Object to the form.

12 THE WITNESS: I don't have a specific
13 answer. I mean, I think I'm just trying to draw the
14 distinction between the idea that you're taking
15 actions in advance of playing the media and invoking 10:41:03
16 the previously saved group to contrast it with
17 what's described as the prior grouping mechanism
18 characterized as in an ad hoc manner one by one at
19 the time the user wishes to play media for that
20 group. 10:41:29

21 BY MR. JAFFE:

22 Q On that point, you referred to pre-create,
23 pre-saved, predefined.

24 It's before what?

25 Pre as in before what? 10:41:39

1 A Generally it's at the time that the user
2 wishes to play the media in that group
3 configuration. As to some specific time threshold,
4 say, as it relates to what's required by the claims,
5 that's not a position or an opinion I've offered in 10:42:03
6 this declaration.

7 Q Okay. So still paragraph 58, romanette
8 (ii), you say:

9 "When the user later wishes
10 to play media in that group 10:42:20
11 configuration."

12 Do you see that?

13 A I see that.

14 Q What is the group configuration you're
15 referring to there? 10:42:27

16 A That is the group configuration from the
17 first romanette (i), pre-create, pre-saved
18 predefined group of zone players. Again, I think
19 that this -- I'm using this term here to generally
20 refer to what was in the romanette (i) as opposed to 10:42:45
21 defining what the term "group configuration" is, as
22 it's used in the claim.

23 Q So in paragraph 58 of your reply
24 declaration, you're using group configuration as a
25 shorthand for what's in romanette (i); is that fair? 10:43:07

1 A I think it's generally referring to the
2 group as opposed to, for example, what's pre-saved.

3 So I don't think it's referring to
4 everything that's in romanette (i).

5 Q Are you using group configuration in the 10:43:27
6 context of the claim term or in a different context
7 here in paragraph 58?

8 A Just using it in a general context. I'm
9 not using it in the way that the patent uses it in,
10 for example, claim 1. 10:43:44

11 So, in other words, I wouldn't read -- it
12 wasn't my intention that this should act as a
13 definition for what group configuration should be as
14 it's used in the claim.

15 In fact, there's -- that's paragraph 64 10:44:00
16 where that group configuration just refers to the
17 grouping of zone players for synchronous playback.
18 There's a part of that description that overlaps
19 with part of what's in romanette (i), but because
20 I'm not talking about the claim language in 10:44:24
21 paragraph 58 like I am in paragraph 64, I am not
22 reading more or -- a person reading my declaration
23 shouldn't read more into the statements in
24 paragraph 58.

25 Q Later in paragraph 58 you say: 10:44:46

1 "Each zone scene comprises an
2 identification of the particular
3 group configuration of zone
4 players that has been predefined
5 and saved later for invocation 10:44:58
6 (i.e., the makeup of the
7 predefined group), perhaps along
8 with other optional settings."

9 Do you see that?

10 A I do. 10:45:08

11 Q Can you give me an example of an
12 identification of the particular group configuration
13 of zone players as you refer to it here in
14 paragraph 58?

15 MR. RICHTER: Object to the form. 10:45:20

16 THE WITNESS: Again, with respect to the
17 example of an identification of the particular
18 group, I don't have a real role example that I've
19 identified. There might be a portion in the street
20 cites contained at the end of that sentence. 10:45:42

21 I think we can walk through and see if
22 there are examples specified in the definition.
23 Again, there's the difference between what the
24 specification describes as part of one more
25 embodiments and ultimately what's required by the 10:45:57

1 claim 1.

2 THE REPORTER: "By the claim"?

3 MR. JAFFE: I think he said "claim
4 language." She was trying to get that last word.

5 Please correct me -- anyone correct me if I have 10:46:18
6 that wrong.

7 BY MR. JAFFE:

8 Q Is a listing of the speakers in a group, is
9 that an identification of a particular group
10 configuration? 10:46:35

11 MR. RICHTER: Object to the form; scope.

12 THE WITNESS: I haven't tried to answer
13 that question in the declaration. I have to give it
14 some thought.

15 BY MR. JAFFE: 10:46:42

16 Q How about a group ID number, would that be
17 an identification of a particular group
18 configuration?

19 MR. RICHTER: Same objection.

20 THE WITNESS: It would be the same answer. 10:46:52
21 I think you're in the context of applying whatever
22 the constructions are to determine if something
23 would meet the construction or a limitation, and
24 that's not something that I've done at this point.

25 /// 10:47:08

1 BY MR. JAFFE:

2 Q What about a name of a group, is that an
3 identification of a particular group configuration?

4 MR. RICHTER: Same objection.

5 THE WITNESS: Same answer. 10:47:16

6 BY MR. JAFFE:

7 Q So here in this sentence, you send at least
8 the first clause with, "(i.e., the makeup of the
9 predefined group)."

10 What do you mean by the "makeup of the 10:47:41
11 predefined group"?

12 A Just what it says.

13 Q What does that mean in paragraph 58 of your
14 reply declaration?

15 A I'm not sure what other words you want me 10:47:54
16 to use or what the confusion is about the makeup of
17 the predefined group.

18 Q Well, what do you mean by the word
19 "makeup"?

20 A Just what it says. The makeup. How the 10:48:04
21 group is made up.

22 Q Is that the list of the speakers?

23 Is that the makeup of the predefined group?

24 MR. RICHTER: Object to the form.

25 THE WITNESS: Sorry. Go ahead. 10:48:22

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1 MR. RICHTER: Just object to the form.

2 THE WITNESS: As to what examples what

3 would be the makeup for the group, again, ultimately

4 what controls here is what the claim language is and

5 how it's construed, then ultimately applying that 10:48:35

6 claim language to determine whether or not things

7 are in the scope of that claim language.

8 That's not an exercise I've gone through

9 within the context of this declaration. So as to

10 specific examples of what would qualify as the 10:48:50

11 makeup of the predefined group, first of all, that's

12 not even claim language.

13 Second of all, it's just not an exercise

14 I've gone through.

15 BY MR. JAFFE: 10:49:04

16 Q Other than repeating the words of the

17 makeup of the predefined group back to me, you can't

18 tell me what you meant with that parenthetical; is

19 that fair?

20 MR. RICHTER: Object to the form. 10:49:14

21 THE WITNESS: It means what I said it

22 means, so I'm not sure what else you're asking about

23 beyond the makeup of the predefined group.

24 BY MR. JAFFE:

25 Q Okay. Let's go to paragraph 59, the next 10:49:24

1 paragraph. You refer to configuration data in the
2 first sentence.

3 Do you see that?

4 A I do.

5 Q Can you give me some examples of what 10:50:01
6 configuration data would be, as you use that term
7 here in paragraph 59?

8 MR. RICHTER: Object to the form; scope.

9 THE WITNESS: As I've used that term here,
10 it just generally refers to configuration data. As 10:50:12
11 to what examples would meet the current
12 configuration data, at least as I've used it here, I
13 don't have specific examples.

14 BY MR. JAFFE:

15 Q In the last sentence of paragraph 59, you 10:51:03
16 say, quote:

17 "The Zone Scene Patents refer
18 to this configuration data in
19 terms of one or more zone
20 configuration files." 10:51:14

21 Do you see that?

22 A I do.

23 Q The patents don't claim zone configuration
24 files, right, they claim zone configuration;
25 correct? 10:51:24

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1 MR. RICHTER: Object to the form; calls for
2 a legal conclusion.

3 THE WITNESS: At least within what we've
4 been looking at in claim 1 of the '206 Patent, I
5 don't recall the word "zone configuration file." 10:51:35

6 But, again, ultimately whether or not the
7 zone configuration would be stored in a file, that
8 gets into what the scope of the claim is.

9 As for the rest of the claims and any of
10 the zone team patents, I don't know if zone 10:51:54
11 configuration file is ever used in the claims
12 because I don't have them memorized. I think they
13 speak for themselves what they say.

14 BY MR. JAFFE:

15 Q How would data characterize previously 10:52:05
16 saved zone scenes within the system?

17 MR. RICHTER: Object to the form;
18 foundation, scope.

19 THE WITNESS: So I know that there's an
20 issue that Dr. Kyriakakis had with respect to the 10:52:21
21 use of the word "characterize," and I think this is
22 addressed in paragraph 75.

23 You're asking in your question something
24 different than what's in paragraph 75 with respect
25 to, for example, how you might actually determine if 10:52:41

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1 there's characterization -- if the data
2 characterizes the Zone Scene?

3 You want specific examples, then, again, I
4 don't have specific examples. That wasn't the
5 purpose of this declaration to apply the claim 10:53:01
6 language.

7 BY MR. JAFFE:

8 Q I was referring to your declaration --
9 reply declaration, paragraph 59, and the second line
10 says: 10:53:15

11 "May include data
12 characterizing previously saved
13 zone scenes within the system."

14 Do you see that?

15 A I do. 10:53:22

16 Q What is "data characterizing previously
17 saved zone scenes within the system"?

18 A So, again, if you're asking for specific
19 examples, this declaration doesn't provide specific
20 examples kind of at that level of detail. I thought 10:53:37
21 your previous question was asking something
22 different.

23 So maybe -- I'm not actually sure if you're
24 asking for something more than just a specific
25 example of how that multizone system can include 10:53:53

1 data characterizing previously saved zone scenes
2 within the system.

3 Q So my question is: Just looking at what
4 you wrote here in paragraph 59 of your declaration,
5 what is data characterizing previously saved Zone 10:54:19
6 Scenes?

7 A It's exactly that. If you want -- your
8 question seems vague and whether or not you're
9 asking about examples or not.

10 It's data characterizing previously saved 10:54:36
11 zone scenes. So whatever data you have that can be
12 used to characterize the Zone Scene, then that's
13 what's being referenced here in this paragraph.

14 Q How does data characterize the previously
15 saved Zone Scene? 10:54:57

16 MR. RICHTER: Object to form; foundation,
17 scope.

18 THE WITNESS: Again, that gets into the
19 application of how that data would characterize it
20 would depend on the type of data that you would 10:55:08
21 have. Could be examples of providing what the zone
22 players are that are part of the Zone Scene. That
23 might be one way of doing it.

24 But there could be lots of different ways
25 of data that characterizes the previously saved Zone 10:55:26

1 Scene.

2 BY MR. JAFFE:

3 Q How does one of ordinary skill know whether
4 a set of data characterizes previously saved Zone
5 Scenes or not?

10:55:40

6 MR. RICHTER: Object to the form.

7 THE WITNESS: Let's see. I think this gets
8 into the second half of paragraph 75. Probably is a
9 description responding to Dr. Kyriakakis, so I will
10 read that last half of the paragraph.

10:56:29

11 But it uses figure 3A as an example to
12 visually demonstrate what the specific group of zone
13 players are and so data representing or
14 characterizing what those relationships are, so then
15 let me go back to paragraph 59.

10:56:55

16 The data that may include characterizing
17 what the previously saved Zone Scene is within the
18 system. So representations of data that would
19 define what that Zone Scene is could be an example
20 of how that data characterizes the Zone Scene.

10:57:14

21 BY MR. JAFFE:

22 Q That would be like a list of -- sorry.

23 Go ahead.

24 A Yeah. Trying to get back to your question.

25 So how would a person in skill of the art

10:57:26

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1 know they would be able to look at a system and see
2 the kinds of information that would describe the
3 Zone Scene? And they would be able to use their
4 knowledge to determine whether or not they thought
5 it provided characterization of that Zone Scene. 10:57:42

6 And I don't think that the methodology for
7 looking at some data -- some representation of data
8 in determining whether or not it's a
9 characterization of this Zone Scene would be that
10 difficult of a task for a person of skill in the 10:58:04
11 arts.

12 Q Since you kind of went there, let's go to
13 paragraph 72 of your declaration.

14 A Okay.

15 Q Just at eye level, paragraph 72 is 10:58:49
16 describing why you disagree with Dr. Kyriakakis's
17 opinion that the specification confuses the term
18 "zone configuration" and "group configuration";
19 correct?

20 MR. RICHTER: Object to the form; 10:59:03
21 declaration speaks for itself.

22 THE WITNESS: The first part of the
23 sentence in 72, but I don't know if that's
24 exclusively characteristic of everything that's in
25 paragraph 72. 10:59:16

1 BY MR. JAFFE:

2 Q So here in the middle of paragraph 72, I
3 guess it's a little bit -- two-thirds of the way in,
4 there's a sentence that says, quote:

5 "Indeed, the example 10:59:41
6 embodiment of the zone
7 configuration is a zone
8 configuration file which may take
9 the form of a zone group
10 configuration file." 10:59:50

11 Do you see that?

12 A I do.

13 Q So when you were looking at the
14 specification of the Zone Scene patents, you were
15 taking the description of zone group configuration 11:00:03
16 file to be an example of a zone configuration; is
17 that fair?

18 MR. RICHTER: Object to the form.

19 THE WITNESS: You missed one level of
20 indirection. 11:00:19

21 It's the example of the zone configuration
22 is a zone configuration file. So the zone
23 configuration can be represented in the file format
24 and saved, for example, and then that can take the
25 form of a zone group configuration file. 11:00:34

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1 So the difference is whether it's just the
2 zone configuration file, which is broader in the
3 sense that it doesn't have to have -- or be about a
4 zone group. And then the more specific instance of
5 a zone group configuration file, which could be an 11:00:50
6 example of the way that you're representing zone
7 configuration, if, for example, there's a zone
8 group, then that can be representing within the zone
9 group configuration file.

10	BY MR. JAFFE:	11:01:08
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11	Q	Let me make sure I understand that.
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```
12         So there's zone configuration, and an
13         example of a zone configuration is a zone
14         configuration file, and a zone configuration file
15         can take the form of a zone group configuration      11:01:21
16         file; is that fair?
```

17 MR. RICHTER: Object to the form.

18 THE WITNESS: If you read that sentence
19 correctly, that's what it says.

20 BY MR. JAFFE: 11:01:31

21 Q I wasn't reading a sentence. I was kind of
22 paraphrasing just to be clear.

23 A Maybe could you redo it, then?

24 I thought you were...

25	Q	Sure.	11:01:40
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1 So we have a zone configuration and an
2 example of a zone configuration is a zone
3 configuration file and a zone configuration file can
4 take the form of a zone group configuration file; is
5 that right?

11:01:57

6 A Yes.

7 Q Okay. So when you saw zone group
8 configuration file, your understanding was that by
9 the kind of chain of logic, referred back to a zone
10 configuration; is that right?

11:02:17

11 MR. RICHTER: Object to the form.

12 THE WITNESS: There was a relationship back
13 to zone configuration and so it would be wrong to
14 think that zone group configuration file was somehow
15 synonymous with group configuration.

11:02:32

16 Even though those two words are embedded in
17 the four words, it's a different terminology chain.

18 BY MR. JAFFE:

19 Q When you were looking at the specification,
20 so, for example -- well, why don't we just do this
21 more methodically.

11:03:01

22 Here on paragraph 72 towards the bottom,
23 you say column 5, 11 through 50 of the '206 Patent.

24 Do you see that?

25 A I do.

11:03:23

1 Q Now, there's a kind of a big chunk there
2 and I don't want to stop you from reviewing whatever
3 parts that you want to, but if you look at lines 48,
4 you see there's a reference to a zone group
5 configuration?

11:04:00

6 A Yes.

7 Q Is that zone group configuration -- is that
8 referring to a zone configuration?

9 MR. RICHTER: Object to the form.

10 THE WITNESS: It's more in line with the
11 terminology chain, as it relates to zone
12 configuration than it is to group configuration.
13 This is -- this is in contrast to the use of the
14 term "group configuration."

11:04:20

15 So this is -- I think I referred in the
16 declaration to group configuration as being
17 different than the zone group configuration being
18 described here.

11:04:39

19 BY MR. JAFFE:

20 Q Sorry. I'm not sure I followed that.

11:05:00

21 Is what's written here on column 5, line 48
22 where it uses the phrase "zone group configuration,"
23 is that referring to a zone configuration or a group
24 configuration?

25 MR. RICHTER: Object to the form.

11:05:17

1 THE WITNESS: It's certainly not referring
2 to a group configuration. It says "zone group
3 configuration." The claim term that we started with
4 was "zone configuration."

5 So you can think about a zone configuration 11:05:34
6 relating to the broader concept of the zone
7 regardless if you have a group there or not. So a
8 zone group configuration would be information
9 specific to the zone group.

10 And so the group information, remember, is 11:05:51
11 different. It's tied to the Zone Scene description
12 and that's based on the claim language. Claim 1 of
13 the '206 Patent.

14 BY MR. JAFFE:

15 Q Okay. So can you go to paragraph 64. 11:06:15

16 A Yes.

17 Before you start, I was going to tie this
18 paragraph into the previous answer, but I didn't
19 want to sound not responsive.

20 But there is a typo in this paragraph that 11:07:19
21 maybe has created confusion.

22 Q What is the typo?

23 A So the typo is where it says -- see where
24 it says at the end the pin cite, CEG '206 Patent,
25 that's actually what I described in the previous 11:07:35

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1 answer as what's described in this column 5. And
2 the part you were talking about, which is around
3 line 48, was in contrast to group configuration.

4 So I think instead of e.g., I think it's
5 like c.f., as opposed to e.g. as for example. 11:07:56

6 Q Okay. So you were citing here in
7 paragraph 64 in describing what a group
8 configuration is, column 5, lines 43 through 50,
9 which refers to the zone group configuration, the
10 same cite that you later cited in support of the 11:08:24
11 zone configuration; right?

12 A No.

13 So what I was citing to here is group
14 configuration and it's contrasted by the term "zone
15 group configuration." So it wasn't supposed to be 11:08:44
16 that was -- it was the column 5, line 43 through 57.
17 31 through 33 were examples of group configuration.
18 It was group configuration is a grouping of zone
19 players for synchronous playback in contrast to the
20 zone group configuration. 11:09:05

21 So that zone group -- sorry.

22 The group configuration being a grouping of
23 zone players for synchronous playback is at the top
24 of that column, for example, and this is showing the
25 contrast of the different term. 11:09:22

1 Q That's not how it's actually written here;
2 correct?

3 A Yeah. That was the typo that I mentioned
4 instead of e.g., it should be c.f. --

5 Q Okay. 11:09:35

6 A -- in contrast.

7 Q So the zone group configuration, you have
8 here in column 5 -- well, actually, let me pause and
9 start over.

10 Is that all right? 11:09:51

11 A Yes.

12 Q So the second part you cite here in
13 paragraph 64 is column 7, lines 31 through 33.

14 A Yes.

15 Q How do you see a reference here to a zone 11:10:12
16 group configuration?

17 A Exactly. Right. It's in contrast to group
18 configuration. The zone group configuration is
19 something different.

20 Q I appreciate that. 11:10:24

21 My question actually was: Do you see the
22 words written there, "zone group configuration"?

23 A Yes.

24 Q Is the reference here to zone group
25 configuration, is that referring to a zone 11:10:35

1 configuration or a group configuration?

2 And here again, we're talking about column
3 7, lines -- what is it -- 31 through 33 of the '206
4 Patent.

5 A Right. 11:10:49

6 MR. RICHTER: Object to the form.

7 THE WITNESS: So here it's the zone group
8 configuration. It's more in line with the
9 terminology that we had described.

10 And now I lost the paragraph that we were 11:11:02
11 in earlier. 72. So it's more a part of that kind
12 of terminology tree that you have zone configuration
13 and then zone configuration file, and then a more
14 specific instance of that is a zone group
15 configuration file because that requires group 11:11:30
16 configuration information as opposed to just zone
17 information.

18 So it's more part of that flow of
19 terminology than group information where that group
20 information is just the grouping of zone players for 11:11:50
21 synchronous playback.

22 BY MR. JAFFE:

23 Q Sorry. You're kind of losing me with
24 terminology trees and flows here.

25 Is what's referred to here as a zone group 11:12:00

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1 configuration, does that refer to a zone
2 configuration or a group configuration, here in
3 column 7, lines 31 through 33?

4 MR. RICHTER: Same objection.

5 THE WITNESS: It's not referring to group 11:12:14
6 configuration. That's a different term that
7 modifies as used in the claims for zone status --
8 sorry, not zone status -- Zone Scene.

9 It's more in line with zone configuration,
10 but zone group configuration is a more specific 11:12:39
11 version of zone configuration. That's kind of the
12 simpler way.

13 I used the term terminology tree, that's
14 the term that I was using when we were describing
15 paragraph 72. You have zone configuration, then the 11:13:01
16 example embodiment is a zone configuration file that
17 may take the form of a zone group configuration
18 file.

19 So the idea here is that zone in column 7,
20 line 31 through 33 where it talks about zone group 11:13:19
21 configuration would be the embodiment -- or an
22 embodiment of that would be the zone group
23 configuration file.

24 It kind of ties into those terms as opposed
25 to group configuration. That's something different. 11:13:36

1 BY MR. JAFFE:

2 Q So here in paragraph 64, you don't cite any
3 relevant -- excuse me -- you don't cite any examples
4 in the specification of a group configuration; is
5 that right?

11:13:56

6 A No, not here in 64. To the extent that
7 term is discussed, I think there's other paragraphs
8 and I thought there was a cite somewhere, maybe not
9 in 64, to the top of column 5.

10 Q So even though you wrote, quote, "In the
11 context of this claim language and the relevant
12 disclosure in the specification," and that included
13 various sites, your testimony is that those cites
14 aren't actually examples of group configurations?

11:14:17

15 A Correct. The cite there are to contrast
16 group configuration with zone group configuration.
17 So the cites for group configuration I think are in
18 a different paragraph, and the top of column 5,
19 where it's describing in words exactly what the last
20 sentence before the cites say.

11:14:37

11:15:02

21 Q So the top of column 5?

22 A Yes.

23 Q What specific lines are you referring to?

24 A That first full paragraph:

25 "Two or more zone players may

11:15:21

1 be grouped together to form a new
2 zone group. An accommodation of
3 zone players and existing zone
4 group may be grouped together.

5	In one instance, a new zone group	11:15:31
6	is formed by adding one zone	
7	player to another zone player or	
8	an existing zone group."	

9	So that group configuration is kind of that	
10	concept, a grouping of zone players for synchronous	11:15:42
11	playback.	

12 Q What you just described doesn't mention the
13 phrase configuration -- or group configuration,
14 excuse me; correct?

15	A	No, it doesn't. But it becomes apparent	11:15:57
16		when you look at how group configuration is used to	
17		modify Zone Scene in, for example, claim 1 of the	
18		'206 Patent.	

19	Q	Let's take this sentence by sentence, then.
----	---	---

20	So the first sentence of what you just	11:16:26
21	cited in the top of column 5 says:	

22 "Two or more zone players may
23 be grouped together to form a new
24 zone group."

25	Do you see that?	11:16:35
----	------------------	----------

1 A Yes.

2 Q Is that describing group configuration?

3 A So group --

4 MR. RICHTER: Object to the form.

5 THE WITNESS: -- group configuration would 11:16:44
6 refer to that grouping.

7 So the fact that you have those zone
8 players grouped together would be the grouping of
9 zone players for synchronous playback.

10 BY MR. JAFFE: 11:16:58

11 Q How would it refer to the group?

12 A The mechanics of how, I don't know that
13 there are particular limits on how that can be
14 expressed. It's not really a question I tried to
15 answer. 11:17:16

16 But if we're back in the claim language,
17 that zone C would have to identify the group
18 configuration associated with two or more of the
19 plurality of independent playback devices.

20 So any mechanic -- any mechanism for how 11:17:35
21 you would represent the Zone Scene using that group
22 configuration would be within the scope of the
23 claims.

24 Q Let's go to the third sentence here. It
25 says, quote: 11:17:57

1 "In one instance a new zone
2 group is formed by adding one
3 zone player to another zone
4 player or an existing zone
5 group." 11:18:06

6 Do you see that?

7 A I do.

8 Q How does that describe a group
9 configuration?

10 MR. RICHTER: Object to the form. 11:18:11

11 THE WITNESS: It shows that the
12 configuration of the group can change so that you
13 can add additional players, so that the idea that
14 whether the grouping existed before or whether you
15 modified it, once you have modified it, it's a new 11:18:26
16 grouping but it still is a grouping of zone players
17 for synchronous playback.

18 BY MR. JAFFE:

19 Q What would be included in the group
20 configuration in the -- as described here in 11:18:37
21 column 5, lines 4 through 8?

22 MR. RICHTER: Object to the form; scope.

23 THE WITNESS: Column 5, lines 4 through 8
24 doesn't describe, say, anything specific like a
25 particular variable or a wave representing the 11:18:53

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1 information. I think this gets back to the claim
2 language allowing for variations on anything that
3 can identify a group configuration associated with
4 two or more of the plurality in the playback
5 devices.

11:19:12

6 So any programming construct or mechanism
7 or visual representation that would convey that
8 concept would be sufficient to meet the claim.
9 Those are examples.

10 BY MR. JAFFE:

11:20:44

11 Q So let's go to paragraph 65. Again, we're
12 still in your reply declaration.

13 A Okay.

14 Q You referred to Zone Scene identifying a
15 group configuration as a special kind of group
16 configuration.

11:21:12

17 Do you see that?

18 A Yes.

19 Q What makes it special?

20 A That it's predefined and saved for later
21 implication.

11:21:23

22 Q And then you said:

23 "A group configuration can be
24 formed more efficiently."

25 What do you mean by that?

11:21:33

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1 A So I think this goes back to the part we
2 read before, maybe paragraph 57 in the reply brief,
3 and then paragraph 58 uses that word "inefficiency."

4 So it's that whole point of instead of
5 having to form the group in an ad hoc manner, one by 11:21:58
6 one, every time the user wishes to play the media in
7 that group configuration, that the efficiency that
8 you get is described in paragraph 58.

9 And we talked about those two individual
10 romanettes. 11:22:20

11 Q So after this citation, you cite column 8,
12 lines 22 through 36.

13 Do you see that?

14 A Yes.

15 Q There's no reference to a group 11:22:42
16 configuration in that citation; correct?

17 MR. RICHTER: Object to the form.

18 THE WITNESS: I'm not sure what you're
19 asking.

20 I mean, the concept that the group that the 11:23:17
21 Zone Scene identifying a group configuration is a
22 special kind of group configuration. It's
23 describing the first part of that cite.

24 The idea that you can dynamically link
25 together says using one command, so it's describing 11:23:39

1 the process of creating that special kind of group
2 configuration.

3 BY MR. JAFFE:

4 Q Thanks for that.

5 My question is: There's no reference to a 11:23:52
6 group configuration in column 8, lines 22 through 36
7 of the '206 Patent; correct?

8 MR. RICHTER: Object to the form.

9 THE WITNESS: So if you think my answer
10 wasn't responsive and that's why you're asking it 11:24:03
11 again, then maybe your question was whether or not
12 the words "group configuration" appear within that
13 section.

14 I don't think the words are there, but as
15 in the previous answer, I think they were there in 11:24:15
16 concept.

17 BY MR. JAFFE:

18 Q Where are they there in concept?

19 A So the idea that you're creating these
20 predefined groups for later invocation. 11:24:28

21 Q That's the concept of a group
22 configuration?

23 A That's the concept of a special kind of
24 group configuration.

25 Q Okay. So column 8, line 60 through 67, 11:24:47

1 your next citation in paragraph 55 -- excuse me --
2 65, there's no reference to group configuration in
3 that citation; correct?

4 MR. RICHTER: Same objection.

5 THE WITNESS: I don't see the word "group 11:25:09
6 configuration," the words. But I think it's there
7 in concept with respect to one of the things that
8 the specification describes is if you're building
9 this special kind of group configuration that's
10 predefined and saved, it's describing some 11:25:26
11 additional kind of attributes, optional attributes.

12 BY MR. JAFFE:

13 Q Okay. And then column 10, lines 4 through
14 19, there's no reference to a group configuration
15 there either; correct? 11:25:47

16 MR. RICHTER: Same objection.

17 THE WITNESS: Yeah. This looks to be
18 setting up the special kind of group configuration.

19 BY MR. JAFFE:

20 Q Where is it setting that up? 11:26:12

21 A So I mean I can just read, but the idea
22 that -- first of all, the cite is 10-4, which says
23 the process. So there's a little bit of a
24 description as to what that process is.

25 So you have to go to the paragraph before 11:26:34

1 that starts at column 9, line 65, and so that
2 describes process of providing a player fee or Zone
3 Scene for plurality of players.

4 Then by the time you get to column 10,
5 line 4, it's going through that process of allowing 11:26:52
6 the user to decide which zone player will be
7 associated with the scene. So you're creating that
8 special kind of group configuration that's
9 predefined and then it will get on to describing how
10 it's saved. 11:27:10

11 Q Okay. So where in column 10, lines 4
12 through 19 is a reference to a group configuration?

13 MR. RICHTER: Object to form.

14 THE WITNESS: Again, I think like the other
15 cites, so far it's not using the words "group 11:27:27
16 configuration," but it's describing in concept the
17 idea that you have predefined groups and that those
18 zone scenes are special kinds of group
19 configuration.

20 BY MR. JAFFE: 11:27:51

21 Q Okay. And then the next cite is column 10,
22 lines 21 through 22.

23 There's no reference to a group
24 configuration in those two lines, is there?

25 MR. RICHTER: Same objection. 11:28:04

1 THE WITNESS: I don't see the words, but
2 with respect to what's there in concept, it's now on
3 to the invocation phase for what's a predefined and
4 saved special kind of group configuration.

5 BY MR. JAFFE: 11:28:29

6 Q Then the next thing you cite, Appendix N,
7 pages 30 through 35 and 37. I'd like to turn there
8 now.

9 A That I don't have printed.

10 Do you have a PDF of Exhibit 5? 11:28:48

11 Q Yeah. That's on the Exhibit Share.

12 A I pulled that down.

13 Do you have a page number?

14 Q I'm not actually -- I think, if I'm
15 understanding this correctly, the PDF page number 11:29:00
16 would be -- hold on --

17 A I'm getting there, too.

18 Q -- 241.

19 But this is actually one question I have,
20 which is what you intended to cite here. 11:29:28

21 A That looks -- it does not look like what I
22 had in mind. I think the cite is -- I have to go
23 back and look and see. I would have to double check
24 the cite.

25 MR. RICHTER: Jordan, did you say page 241 11:30:43

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1 of Exhibit 5?

2 MR. JAFFE: PDF page 241.

3 MR. RICHTER: Okay.

4 THE WITNESS: I think it's -- actually, if
5 I'm correct, it's PDF page 200. It's the scene 11:31:05
6 setup that's described there and I think that it's
7 similar. It should be those pages starting with
8 that scene setup.

9 BY MR. JAFFE:

10 Q Okay. Where does this refer to the group 11:32:10
11 configuration?

12 A It's the same concept of what the other
13 insights are. It doesn't use that term by name, but
14 with respect to setting up the special kind of group
15 configuration, especially in the context of the 11:32:22
16 claim language where that Zone Scene identifies a
17 group configuration associated with two or more of
18 the plurality of independent playback devices,
19 that's what this and all the other cites are
20 showing. 11:32:40

21 Q Okay. Can you hear me?

22 A I can.

23 If you're going to transition, can we do
24 another break?

25 Q Yeah. I have a couple quick follow-ups and 11:32:55

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1 I'm happy to take a break.

2 So you suggested that the citation was
3 supposed to be to what's page 200 of the PDF of your
4 reply declaration; is that right?

5 A I believe that's right. I would have to go 11:33:11
6 back and double check. There's a sequence of pages.
7 I think the page count is correct.

8 Q So I'm just looking at page 200 and that's
9 the page -- just make sure we're looking at the same
10 thing. 11:33:30

11 It starts section 3, "scene setup"; is that
12 right?

13 A Yes.

14 Q Then there's -- the first thing it refers
15 to is "desktop controllers." 11:33:38

16 A That's section 3.2. It's 3.1. It's --
17 handheld controller 3.2 is desktop controller.

18 Q 3.2 refers to Zone Scene setup and then
19 there's a picture and in there are three different
20 scenes that are listed, or at least three different 11:33:59
21 menu items that end with the word "scene."

22 The first one is "party mode scene," second
23 one is "end party mode scene," and third one is
24 "morning scene."

25 Do you see that? 11:34:11

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1 A I do.

2 Q What is party mode scene?

3 MR. RICHTER: Object to the form; scope.

4 THE WITNESS: That's just the name of

5 whatever scene is in here. You can give whatever 11:34:21

6 name you want. I don't think that it's describing

7 the style of scene, as that term has been used

8 elsewhere. It's just the name of a particular

9 scene.

10 BY MR. JAFFE: 11:34:39

11 Q You said, "As that term has been used

12 elsewhere."

13 Is this term used elsewhere?

14 What term are you referring to when you're

15 saying referred to elsewhere? 11:34:49

16 A I think -- let's see.

17 I thought it was mentioned in the '206

18 Patent. I thought I saw it somewhere. I don't

19 remember exactly where I saw it before.

20 But at least in this example, it's just the 11:35:20

21 name of a particular scene, like the other ones that

22 surround it, where you can -- the user can go in and

23 create scenes.

24 Q Are you familiar with party mode in Sonos's

25 products? 11:35:42

1 MR. RICHTER: Object to the form; scope,
2 foundation.

3 THE WITNESS: I've vaguely heard of that
4 term. As to exactly what it is, it's not something
5 I offered opinions on in this declaration. 11:35:58

6 BY MR. JAFFE:

7 Q What is party mode?

8 MR. RICHTER: Same objections.

9 THE WITNESS: I don't know. That's -- the
10 details are not something I offered in this 11:36:06
11 particular declaration.

12 BY MR. JAFFE:

13 Q Do you know what this party mode scene is
14 here --

15 MR. RICHTER: Same objection. 11:36:17

16 BY MR. JAFFE:

17 Q -- in paragraph 200 of your declaration?

18 A I think you mean page 200 of the PDF.

19 Q Correct.

20 A It just says it's a scene that's available 11:36:29
21 and consistent with something that the user can
22 create or edit.

23 Q Then there's this thing called morning
24 scene.

25 Do you know what that is? 11:37:05

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1 Still on page 200 of the PDF of your reply
2 declaration.

3 MR. RICHTER: Object to the form.

4 THE WITNESS: Just what it describes here.

5 Right? 11:37:17

6 So Zone Scene setup is available from the
7 zones menu on the DCR. Page 201, Zone Scene can be
8 added, edited or deleted. With respect to page 202,
9 at least in this document, describes each scene
10 consisting of just one zone grouping. And then 11:37:39
11 shows kind of through the user interface what you
12 can do.

13 I think page 12 might be missing. Page 13
14 doesn't have a number on it. But now you're into,
15 for example, the volumes for the zones in the Zone 11:38:00
16 Scene.

17 And then there's more configuration on 14
18 and 15.

19 BY MR. JAFFE:

20 Q So looking at page 201, PDF page 201, in 11:38:16
21 your reply declaration, there's a UI dialogue, and
22 it says, "The following Zone Scenes are available."

23 Are morning, end party mode and party mode
24 examples of Zone Scenes?

25 MR. RICHTER: Object to the form. 11:38:38

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1 THE WITNESS: That would require applying
2 whatever the court ultimately determines the
3 construction is for Zone Scene and then having more
4 information about the genesis of these particular
5 three entries. 11:38:54

6 MR. JAFFE: We can take our next break.

7 THE VIDEOGRAPHER: We're off the record at
8 11:39 a.m.

9 (Whereupon, a recess was held
10 from 11:39 a.m. to 11:51 a.m.) 11:50:59

11 THE VIDEOGRAPHER: We're back on the record
12 at 11:51 a.m.

13 BY MR. JAFFE:

14 Q Welcome back, Dr. Almeroth.

15 A Hi. 11:51:10

16 Q Did you do any sort of refreshing on the
17 subject matter in your deposition while we were on
18 break?

19 A No.

20 Q So before we went on a break, we were 11:51:22
21 looking at some citations in the appendix, Appendix
22 N, starting on page PDF page 200 of your reply
23 declaration.

24 And I wanted to ask you: Where was the
25 reference to a group configuration in this relevant 11:51:40

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1 part of the appendix that you cited?

2 MR. RICHTER: Object to the form.

3 THE WITNESS: I don't see where the
4 particular term "group" information shows up, but I
5 think it's there in concept consistent with the 11:51:53
6 other citations I have identified consistent with
7 the claim language and how group information is used
8 or side group configuration as used in the claims.

9 BY MR. JAFFE:

10 Q I want to turn back to the part of the 11:52:47
11 declaration we've been going through. We just
12 talked about paragraph 65. I would like to turn to
13 paragraph 66. This is PDF page 20 if that helps you
14 get there quicker.

15 A Okay. 11:53:08

16 Q So the second-to-last sentence says that:

17 "A POSITA would understand
18 this to mean that the data
19 'provides an indication of' or
20 'provides a characteristic of' 11:53:34
21 the thing it is characterizing."

22 Do you see that?

23 A No.

24 What paragraph did you say?

25 Q Paragraph 66, second-to-last sentence. 11:53:45

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1 A Yes.

2 Q Can you give me an example of how data
3 would provide an indication of or provide a
4 characteristic of the thing it is characterizing?

5 MR. RICHTER: Object to the form; scope. 11:54:07

6 THE WITNESS: I mean, in a general sense I
7 haven't really attempted to come up with examples or
8 even specifically in the context of examples from
9 the patent. Maybe there are some, but I don't know
10 if that's what those citations describe. But I 11:54:24
11 don't have something off the top of my head.

12 BY MR. JAFFE:

13 Q Paragraph 67 says that a zone -- I'm going
14 to paraphrase, it says a zone configuration refers
15 to configuration data, whereas a Zone Scene is not 11:54:56
16 limited to being a data representation.

17 Do you see that?

18 A I do.

19 Q So is a Zone Scene some sort of abstract
20 concept here, as compared to a zone configuration? 11:55:13

21 MR. RICHTER: Object to the form; scope,
22 calls for legal conclusion.

23 THE WITNESS: I don't think it's an
24 abstract concept. I'm not sure if you're using the
25 term "abstract" in the sense of saying 101 analysis, 11:55:29

1 in which case it does call for a legal conclusion.

2 But I think the idea here is that zone
3 configuration is configuration data. The kind of
4 thing that might appear in a file that could be
5 passed around and then it would be used to kind of
6 construct what the zone is.

11:55:47

7 But the Zone Scene, as it says, isn't
8 limited to being a data representation. I mean,
9 it's -- you use the term "abstract," I think it's
10 more of a concept of what the zone is.

11:56:04

11 It's a conceptual representation, so you
12 could represent it in a variety of different ways.
13 The point here is, it's not limited to just a data
14 representation.

15 Maybe you could do it with a figure or
16 something like that.

11:56:19

17 BY MR. JAFFE:

18 Q A figure wouldn't be a data representation?

19 A So --

20 MR. RICHTER: Object to the form.

11:56:31

21 THE WITNESS: -- I mean, at that point, if
22 you don't like that example, which is probably why
23 I've been hesitant to give you specific examples and
24 application indications of the claim terms, then the
25 point really is that you can have data

11:56:48

1 representations as part of the zone configuration.

2 That's configuration data. But the Zone Scene isn't

3 limited to that kind of data representation, the

4 kind of things that would be stored, for example, in

5 a file.

11:57:05

6 BY MR. JAFFE:

7 Q So if a Zone Scene is not limited to a data

8 representation, what else could it be?

9 MR. RICHTER: Object to the form; scope,

10 calls for legal conclusion.

11:57:23

11 THE WITNESS: Something that's not a data

12 representation. It's a conceptual -- the fact -- I

13 mean, the example from figure 4A. Zone Scene is the

14 combination of the bedroom, den, dining room.

15 That's the Zone Scene.

11:57:45

16 BY MR. JAFFE:

17 Q And so claim 1 is a media controller

18 including a processor the controller can figure to.

19 Do you see that?

20 A Yes.

11:58:01

21 Q In the context of an apparatus claim, how

22 would you have a Zone Scene that's not a data

23 representation?

24 MR. RICHTER: Object to the form;

25 foundation, scope, calls for a legal conclusion.

11:58:16

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1 THE WITNESS: So the first limitation is
2 received via network interface, a zone
3 configuration -- and then I'll stop short of reading
4 verbatim.

5 So what you have to receive in the 11:58:34
6 apparatus is the zone configuration. It says where
7 you receive it from, tells you more about the zone
8 configuration wherein clause. Another wherein
9 clause. The zone configuration characterizes one or
10 more zone scenes. 11:58:57

11 So the Zone Scene is characterized by the
12 zone configuration. So in the context of an
13 apparatus claim, what was required is to receive via
14 network interface and then what's identified from
15 there. 11:59:19

16 Zone configuration is configuration data.
17 I think it's perfectly consistent with the
18 understanding of the claim that the Zone Scene can
19 be characterized by the zone configuration.

20 BY MR. JAFFE: 11:59:42

21 Q Okay. In the context of claim 1 of the
22 '206 Patent, can you provide me an example of a Zone
23 Scene that would not be a data representation?

24 MR. RICHTER: Object to the form; scope.

25 THE WITNESS: Not a question I tried to 11:59:55

1 answer. I would have to give it some thought.

2 BY MR. JAFFE:

3 Q Going back to paragraph 67, and there's a
4 long sentence, but the -- towards the bottom of the
5 page, you say, in part, quote:

12:00:21

6 "Describes a Zone Scene as a
7 previously-saved, predefined
8 group configuration that is
9 framed from the perspective of a
10 user rather than being limited
11 only to its representation in
12 computer data."

12:00:32

13 Do you see that?

14 A I do.

15 Q What do you mean by, "Framed from the
16 perspective of a user"?

12:00:40

17 A Let me see what the rest of the sentence
18 says.

19 (Document reviewed by the witness.)

20 THE WITNESS: So the idea here in the
21 sentence is it's describing that the Zone Scene is
22 not limited to configuration data. And you have to
23 consider the Zone Scene from the perspective of the
24 user.

12:01:27

25 So the citations, I think we've already

12:01:43

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1 gone through them, 18 through 36, and then the two
2 column 10 citations are essentially describing ways
3 in which Zone Scenes can be created. They can be
4 given a particular name, and you see that in example
5 in figure 3A, and so those are from the perspective 12:02:04
6 of a particular user.

7 So the user's understanding -- or reference
8 as to what the Zone Scene is, which wouldn't be
9 limited to just the data that characterizes what
10 that Zone Scene is. 12:02:26

11 Q We're talking about what's in the mind of a
12 user?

13 A No.

14 MR. RICHTER: Object to the form.

15 THE WITNESS: It's -- you can still see, 12:02:34
16 for example, in figure 3A, that the name of the Zone
17 Scene could be morning, and so that's not limited to
18 just the representation of the data.

19 Now, you can represent or you can store
20 that data in a zone configuration, but it doesn't 12:02:55
21 have to be limited to just the data. That would be,
22 for example, stored in a file or sent across the
23 network.

24 BY MR. JAFFE:

25 Q So if it's not limited to the data, what 12:03:17

1 else is there?

2 MR. RICHTER: Object to the form; calls for
3 a legal conclusion.

4 THE WITNESS: I don't understand the
5 question. 12:03:28

6 BY MR. JAFFE:

7 Q Sure.

8 So is figure 3A an example of a Zone Scene
9 that is not a data representation?

10 MR. RICHTER: Object to the form. 12:03:49

11 THE WITNESS: Again, I don't understand the
12 question.

13 You're seeming to ask in the question
14 whether they have to be mutually exclusive. You
15 have the Zone Scene as represented by the bedroom, 12:04:05
16 the dining room and den. That's what the Zone Scene
17 is. I can tell you what that Zone Scene is. It
18 doesn't have to be represented as zone configuration
19 or configuration data or a file.

20 And so whether the fact that you might be 12:04:23
21 able to represent the view of the zone data -- I'm
22 sorry -- the Zone Scene as data or not, just the
23 whole point of this part of the declaration,
24 paragraph 67, is where a zone configuration refers
25 to configuration data. The description or the 12:04:42

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1 understanding of what the Zone Scene is, is not
2 limited to a data representation.

3 So it's what makes it distinctive over the
4 zone configuration.

5 BY MR. JAFFE: 12:05:05

6 Q Okay. Can you give me an example of a Zone
7 Scene that is not a data representation?

8 MR. RICHTER: Object to the form; scope.

9 THE WITNESS: I think you asked that
10 already, but the answer is I haven't tried to come 12:05:14
11 up with kind of the applications of the claim, and
12 the claim, leaps and bounds, that wasn't something
13 that I was trying to come up with an example of in
14 this declaration.

15 BY MR. JAFFE: 12:05:28

16 Q In the context of a device and computer
17 code, how do you store something that isn't a data
18 representation?

19 MR. RICHTER: Object to the form;
20 foundation, scope. 12:05:37

21 THE WITNESS: Again, the point here is that
22 you can have the Zone Scene, you can depict it
23 pictorially, you can store it as data, but the Zone
24 Scene is the thing. So if I tell you that the Zone
25 Scene is the bedroom, the den and the dining room, 12:06:01

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1 that's the Zone Scene.

2 Where is it stored or represented as data?

3 It's not. You can. That becomes the zone

4 configuration that's stored. But independent of the

5 zone configuration that might be stored or 12:06:18

6 transmitted and is configuration data, you can still

7 have the Zone Scene, as the conceptual

8 representation of that data.

9 BY MR. JAFFE:

10 Q Okay. 12:06:38

11 A To be clear, to look at the claim -- and

12 you're asking about the claim -- the thing that the

13 claim has to receive is the zone configuration.

14 And the zone configuration, as the claim

15 says, has to characterize the Zone Scene and that's 12:07:01

16 the requirement of the claim. You don't need to

17 separately store or have a Zone Scene other than the

18 Zone Scene is characterized by its own

19 configuration.

20 Q Okay. So in paragraph 68, you say that 12:07:26

21 zone configuration characterizes one or more Zone

22 Scenes. That's the third and fourth lines.

23 A I see that.

24 Q And so I'm just referring generally to this

25 paragraph, so feel free to refer to whatever you 12:07:53

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1 want.

2 Am I understanding the opinion you're
3 expressing here is that a zone configuration can
4 include one or more Zone Scenes, whereas a Zone
5 Scene is just a single Zone Scene? 12:08:06

6 MR. RICHTER: Object to the form; document
7 speaks for itself.

8 THE WITNESS: Could you repeat the
9 question?

10 I don't think it made sense, but I'll try 12:08:20
11 and understand it one more time.

12 BY MR. JAFFE:

13 Q Sure.

14 I'm trying to just understand the opinion
15 you're expressing in paragraph 68. And as I 12:08:27
16 understand it, you're saying that one of the
17 differences -- or maybe the difference between a
18 Zone Scene and a zone configuration is that a zone
19 configuration characterized as potentially more than
20 one Zone Scene, whereas a Zone Scene just 12:08:46
21 characterized as one thing.

22 MR. RICHTER: Same objection.

23 THE WITNESS: Yeah. I don't think that's
24 right.

25 I think the point here is that you can have 12:08:57

1 a zone configuration. If we think about that in
2 terms of the idea that it's configuration data and
3 one of the ways that it's been described is being
4 stored in a file. So we think about the data that
5 characterizes the Zone Scene as being configuration 12:09:17
6 data in a file, then that file, that zone
7 configuration can actually have information that
8 characterizes multiple zone scenes.

9 So I think we had the example of Zone
10 Scenes like morning and afternoon and in garden, so 12:09:36
11 for those particular Zone Scenes, the configuration
12 data for each of those Zone Scenes could be in the
13 same zone configuration.

14 BY MR. JAFFE:

15 Q It's possible that a zone configuration 12:09:59
16 with only one Zone Scene in it; right?

17 MR. RICHTER: Object to the form; scope.

18 THE WITNESS: So a zone configuration can
19 characterize one or more Zone Scenes; it can
20 characterize one Zone Scene alone. 12:10:21

21 BY MR. JAFFE:

22 Q Got it.

23 On the other hand, a Zone Scene -- excuse
24 me -- a zone configuration could characterize five
25 Zone Scenes, for example? 12:10:33

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1 MR. RICHTER: Same objections.

2 THE WITNESS: If I understand your
3 hypothetical correctly, that would fall under the or
4 more Zone Scenes part of the description.

5 BY MR. JAFFE: 12:11:07

6 Q So turning to paragraph 69 -- again, I'm
7 not going to quote it verbatim, but so I understand
8 kind of what your opinion is that you express here,
9 it's basically that the zone configuration kind of
10 holds multiple Zone Scenes and then the group 12:11:23
11 configuration is describing the group of zone
12 players; is that correct?

13 MR. RICHTER: Object to the form; document
14 speaks for itself.

15 THE WITNESS: So the zone configuration 12:11:39
16 characterizes one or more Zone Scenes. That's
17 exactly what the claim language says. And then each
18 Zone Scene identifies a group configuration
19 associated with two or more of the plurality of
20 independent playback devices. 12:12:01

21 And I think going back to paragraph 64,
22 that's described as a grouping of zone players for
23 synchronous playback.

24 I recognize you kind of read the claim
25 language back to me, so I'm not sure that really 12:12:18

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1 gets the answer to my question, but we can move on.

2 BY MR. JAFFE:

3 Q Does a group configuration refer to a
4 grouping of zone players for synchronous playback?

5 MR. RICHTER: Object to the form; scope. 12:12:39

6 THE WITNESS: That's what I say in
7 paragraph 64.

8 BY MR. JAFFE:

9 Q But you also say that a Zone Scene is a
10 grouping of players for synchronous playback; 12:12:50
11 correct?

12 A I don't know where I say that.

13 So the Zone Scene -- I mean, this goes back
14 to what the two parties disputed constructions are
15 for Zone Scene and whether it's Zone Scene by itself 12:13:16
16 or Zone Scene identified in a group configuration
17 and ultimately what the Zone Scene is. I don't take
18 a claim construction position on.

19 Q Well, I mean, let's go back to paragraph 43
20 of your opening declaration. 12:13:47

21 A Yep.

22 Q (Reading):

23 "Zone Scene, which is a
24 predefined grouping of zone
25 players that can first be saved 12:14:00

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1 by a user and then later be
2 invoked in order to cause the
3 predefined grouping of zone
4 players to be configured for
5 synchronous playback of the 12:14:11
6 media."

7 Do you see that?

8 A I do.

9 Q That's what you're saying a Zone Scene is;
10 correct? 12:14:19

11 A I stand by the testimony I gave earlier
12 about this paragraph and how that particular
13 language should be interpreted.

14 Q Okay. You won't say that's what it is, but
15 okay. 12:14:29

16 Let's go back to your rebuttal declaration,
17 paragraph 69. You say:

18 "A group configuration refers
19 to a grouping of zone players for
20 synchronous playback." 12:14:43

21 Do you see that?

22 A 64?

23 Q 69.

24 A Okay. I see you're reading at the end on
25 the next page. Okay. 12:15:18

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1 Q You say that:

2 "Group configuration refers
3 to a grouping of zone players for
4 synchronous playback."

5 Correct? 12:15:54

6 A I thought you said group configuration the
7 first time, then I thought you just said something
8 different.

9 Q You say that in paragraph 69 of your
10 declaration that group configuration refers to a 12:16:08
11 grouping of zone players for synchronous playback.

12 A Yes.

13 Q So doesn't that mean that group
14 configuration and Zone Scene are essentially
15 redundant of one another, in your opinion? 12:16:22

16 MR. RICHTER: Object to the form; calls for
17 a legal conclusion.

18 THE WITNESS: I thought it was a good
19 question.

20 No, I don't think they're redundant because 12:16:33
21 a grouping of zone players for synchronous playback
22 doesn't include additional specific requirements for
23 a Zone Scene.

24 And I realize that those terms are at
25 issue, there's different constructions for what is 12:17:00

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1 required for the Zone Scene and what the Zone Scene
2 is, and I believe you're pointing back to
3 paragraph 43 of the opening declaration.

4 I think that summarizes, in part, what
5 Sonos's construction is, but as I testified, I'm not 12:17:16
6 taking a position as to what the correct
7 construction of a Zone Scene is.

8 But the point is that a Zone Scene is
9 something more specific than group configuration.

10 So just like we were talking about zone 12:17:39
11 configuration and zone group configuration and zone
12 configuration file and zone group configuration
13 file, and that there's a relationship there in terms
14 of being a subset or more specific than the other,
15 the same thing applies to Zone Scene and group 12:17:58
16 configuration.

17 And let me just add the one last cite.

18 This is in the reply declaration. I think
19 it first starts off, this whole section, around
20 paragraph 52 when it talks about kind of the dispute 12:18:37
21 between the parties around what zone scene is.

22 Sorry.

23 Paragraph 60 talks about the party zone
24 scene proposals.

25 The point of those paragraphs is there's 12:18:57

1 different definitions for what a Zone Scene being
2 offered is the correct construction. I'm not taking
3 a position on those.

4 But there's some aspects that overlap and
5 the aspects that overlap are ultimately one 12:19:10
6 construction versus another. They would be more
7 specific than group configuration.

8 BY MR. JAFFE:

9 Q Got it.

10 Let's turn to paragraph 72 of your reply 12:19:30
11 declaration.

12 A Okay.

13 Q In the last sentence of paragraph 72, you
14 say that -- excuse me:

15 "A 'zone group configuration' 12:19:57
16 file is something different than
17 an identification of a group
18 configuration."

19 What do you mean by that?

20 A Okay. So zone group configuration -- and I 12:20:08
21 use the term kind of "terminology tree," which is
22 what we went through just above this -- that you
23 have zone configuration, then the embodiment being a
24 zone configuration file. That doesn't require
25 anything about a zone group, then you have zone 12:20:25

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1 group configuration file, so those terms are sort of
2 related.

3 But the zone group configuration file being
4 configuration data is different than the group
5 configuration. So you have the group configuration 12:20:41
6 was the grouping of zone players for synchronous
7 playback, as kind of a more general case of zone
8 status.

9 So the idea is that you have kind of the
10 zone status -- sorry -- the Zone Scene, and that 12:20:56
11 identifies a group configuration. And then what
12 that ultimately has to be is characterized by the
13 zone configuration.

14 And you -- in your questioning earlier, you
15 kind of took issue with the fact that you had this 12:21:20
16 conceptual representation of the group, where I can
17 say it's a bedroom, a living room, and a kitchen,
18 that's not data. You can represent it however you
19 want. So that represents the group or the Zone
20 Scene, then there's the piece of the claim where you 12:21:38
21 have to have the actual configuration data that can
22 be received via network interface.

23 Q When you refer to configuration data as
24 what zone configuration refers to, the zone
25 configuration data, that never appears in the claims 12:22:00

1 of the specification; correct?

2 A The term "configuration data"?

3 Q Correct.

4 A I don't have the spec memorized. You can

5 do a word search and see if they're there or it's 12:22:11

6 not. But, again, I think it's there in concept when

7 it describes this idea of a file and what's in the

8 file, as an example.

9 Q So it's -- the phrase "configuration data"

10 is not, at least to your memory, present in the 12:22:27

11 claims of the specification.

12 Did you come up with that phrase,

13 "configuration data," or did someone provide it to

14 you?

15 MR. RICHTER: Object to the form; scope and 12:22:40

16 to the extent mischaracterizes prior testimony.

17 THE WITNESS: You're asking about

18 configuration data?

19 BY MR. JAFFE:

20 Q Yes. 12:22:54

21 So just maybe I'll restate the question, if

22 that would be helpful.

23 A Sure.

24 Q I'm looking here, for example, at

25 paragraph 72 you say that zone configuration refers 12:23:01

1 to configuration data; correct?

2 A That's what it says.

3 Q And at least sitting here today, you can't

4 identify a single place in the intrinsic record

5 where the phrase "configuration data" appears; 12:23:19

6 correct?

7 MR. RICHTER: Object to the form; and to

8 the extent it mischaracterizes.

9 THE WITNESS: So I don't have the spec

10 memorized. I couldn't tell you if there's a cite to 12:23:29

11 the specific word "configuration" followed by the

12 specific word "data."

13 I think if you look at what's being

14 described in the context of the first part of

15 paragraph 72, the term "zone configuration files" 12:23:41

16 are described and files generally contain data and

17 they're characterized as -- I mean, it's addressed

18 right there at the top of paragraph 72.

19 So to answer your question, I don't know

20 whether or not the word "configuration data," those 12:24:04

21 two words appear. But I think the first part of 72

22 addresses the relationship between configuration

23 data and configuration file and then the term zone

24 configuration.

25 /// 12:24:23

1 BY MR. JAFFE:

2 Q Thank you for that. I'm going to ask my
3 question again, though.

4 Sitting here today, you can't identify a
5 single place in the intrinsic record where the 12:24:30
6 phrase "configuration data" appears; correct?

7 MR. RICHTER: Same objections.

8 THE WITNESS: It's essentially the same
9 answer I gave. It's a little bit circular and
10 longwinded, so I'll try to make it more concise. 12:24:44

11 The point is, I don't know if the term
12 "configuration data," those two words appear in the
13 specification or claims.

14 But the point is, if you look at what the
15 spec says about zone configuration and zone 12:25:01
16 configuration files, that's what files generally
17 hold, are data. And if it's a configuration file,
18 it holds configuration data.

19 BY MR. JAFFE:

20 Q I'll ask it another way. 12:25:15

21 Please identify a single place in the
22 intrinsic record where the phrase "configuration
23 data" appears.

24 A If you're asking for those two words
25 specifically, I don't have the specification 12:25:28

1 memorized. But as I've testified to in the last
2 couple of answers, and paragraph 72 provides the
3 basis for my opinion as to where a person with
4 skilled art would understand the disclosures the way
5 I've characterized them.

12:25:46

6 Q Okay. Then I want to circle back to the
7 question I was getting at earlier.

8 Where did the phrase "configuration data"
9 come from?

10 Is that a phrase that you came up with or
11 was that a phrase that was provided to you by
12 someone else?

12:26:02

13 MR. RICHTER: Object to the form; scope.

14 THE WITNESS: I suspect I came up with it
15 in the context of understanding what a zone
16 configuration is as it relates to zone configuration
17 files.

12:26:14

18 Potentially the word "data" I believe
19 appears in lots of places, so the idea that it's
20 configuration -- zone configuration and it has data,
21 I think it pretty much comes straight out of the
22 spec.

12:26:37

23 BY MR. JAFFE:

24 Q Well, it doesn't come straight out of the
25 spec, right, because you can't identify any instance

12:26:53

1 of it; right?

2 MR. RICHTER: Object to the form.

3 THE WITNESS: The term "configuration

4 data," I don't -- again, I don't know if it's been

5 established whether or not those words appear 12:27:05

6 together, but the idea that you have configuration

7 files that contain data, I'm not sure why it's

8 unreasonable to say that the zone configuration file

9 that has data is not configuration data.

10 I don't recall Dr. Kyriakakis saying that 12:27:26

11 it's his opinion that a zone configuration file

12 doesn't have configuration data.

13 BY MR. JAFFE:

14 Q Okay. Let's go to paragraph 73.

15 A Okay. 12:27:48

16 Q So here you state on the last page on 22

17 carrying over to page 23:

18 "First, as I explained above,

19 'zone configuration' is not used

20 in isolation in the 12:28:10

21 specification -- the

22 specification uses the phrase

23 'zone configuration file.'"

24 Do you see that?

25 A I see that. 12:28:19

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1 Q Are you aware of any instance of an example
2 or description in the specification of a zone
3 configuration as contrasted from a zone
4 configuration file?

5 MR. RICHTER: Object to the form. 12:28:34

6 THE WITNESS: I don't have the spec
7 memorized. Sitting here right now, I couldn't say
8 one way or another. I'd have to go look.

9 But I don't have one memorized to the
10 extent it's there. 12:28:48

11 BY MR. JAFFE:

12 Q And then you cite here on column 5,
13 lines 51 through 53 --

14 A Yes.

15 Q -- and it refers to zone configuration 12:29:12
16 files.

17 Do you see that?

18 A I see that.

19 Q Then it says:

20 "Typically a saved zone group 12:29:21
21 configuration file is transmitted
22 to a controller."

23 Do you see that?

24 A I see that.

25 Q And that's at column 5, line 54. 12:29:30

1 Is the zone group configuration file there,
2 is that referring to a zone configuration or a group
3 configuration?

4 A It's referring to -- it's a special
5 instance of a zone configuration file, so it's -- so 12:29:45
6 the difference there is the introduction of the word
7 "group"; otherwise, it's the same. Zone
8 configuration file versus zone group configuration
9 file.

10 So the zone group configuration file would 12:30:02
11 have information about the zone group, as opposed to
12 just information about the zone.

13 Q So what do you mean when you say,
14 "Information about the zone group as opposed to
15 information about the zone"? 12:30:19

16 A So the information is the configuration
17 data, just to be more specific. But you can
18 certainly have a zone and a zone doesn't necessarily
19 have to have a group in it.

20 So if you have a zone configuration file, 12:30:36
21 there might not be any information about a zone
22 group, but a zone group configuration file is
23 something more specific. It would have information
24 about the zone group.

25 Now, the zone group configuration file 12:30:49

1 might have information about the zone group, but it
2 doesn't have the same specificity as a zone group
3 configuration file, at least in terms of the use of
4 that word and the name.

5 Q Can they be the same? 12:31:03

6 MR. RICHTER: Object to the form.

7 THE WITNESS: If you have an example of a
8 zone group configuration file, it certainly might be
9 the case that it is a zone configuration file. If I
10 have a red car and a car, the red car is still a 12:31:25
11 car. Kind of a genus species description.

12 BY MR. JAFFE:

13 Q Do you have an example of zone group
14 configuration file?

15 MR. RICHTER: Object to the form; scope. 12:31:41

16 THE WITNESS: You asked a lot of questions
17 about examples. I'm not sure what specificity of
18 examples you want.

19 If you talk about the syntax of how
20 information might be stored, configuration data 12:31:51
21 might be stored in the files, I don't have an
22 example. I didn't try and come up with an example
23 for purposes of this declaration. It wasn't
24 necessary for my opinions.

25 /// 12:32:07

1 BY MR. JAFFE:

2 Q Just to make sure we're not talking past
3 each other.

4 What are the essential elements that make
5 something a zone configuration? 12:32:13

6 MR. RICHTER: Object to the form; scope,
7 calls for a legal conclusion.

8 THE WITNESS: I think ultimately I would
9 have to -- I think that's an application of the
10 claim language. I don't think I've tried to come up 12:32:28
11 with some definitive list of information.

12 The best I can point you to is what the
13 claim language says or what it describes as being
14 required.

15 BY MR. JAFFE: 12:32:41

16 Q What are the essential elements that make
17 up a group configuration?

18 MR. RICHTER: Same objection.

19 THE WITNESS: It would be essentially the
20 same answer. I mean, I can point you to the claim 12:32:51
21 language like I've done before. But beyond the
22 claim language, I think you're asking me about sort
23 of applying that term and what would be within the
24 scope of the term or not, which is not I understand
25 an exercise that I have opined on for purposes of my 12:33:08

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1 claim construction declarations.

2 BY MR. JAFFE:

3 Q Looking at paragraph 73, again, of your
4 reply declaration, on the third line down on
5 page 23, you refer to the Zone Scene technology.

12:33:23

6 Do you see that?

7 A I see that.

8 Q What is the Zone Scene technology?

9 A So the full sentence says:

10 "Second, the specification
11 introduces 'zone configuration
12 file' prior to introducing and
13 discussing the 'Zone Scene'
14 technology."

12:33:34

15 So the point here is -- let me answer your
16 question.

12:33:43

17 The Zone Scene technology would be the type
18 of technology described and claimed in the Zone
19 Scene Patent.

20 Q So towards the end of this paragraph, we're
21 still in paragraph 73, you refer to a Zone Scene as
22 a previously saved grouping.

12:34:07

23 Do you see that, in part?

24 I'm not quoting the whole thing.

25 A I see it.

12:34:21

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1 Q What is required to be saved?

2 MR. RICHTER: Object to the form; scope,
3 and calls for a legal conclusion.

4 THE WITNESS: If you're asking about what's
5 required by the claims, then I can point you to the 12:34:36
6 claim language.

7 Beyond that, if you're asking about
8 examples or the application of that claim language,
9 those are not opinions I have attempted to offer in
10 this declaration. 12:34:49

11 BY MR. JAFFE:

12 Q Well, how does one in the ordinary skill
13 know if they saved enough to be a previously saved
14 grouping, as you wrote here in paragraph 73 of your
15 declaration? 12:35:00

16 MR. RICHTER: Same objections.

17 THE WITNESS: So if you're asking -- it
18 says "previously saved groupings." If you're
19 referring to in the claim language for zone
20 configuration, then the claim zone configuration has 12:35:13
21 to characterize one or more Zone Scenes.

22 So that would be what a person in the
23 skilled art would look to to determine whether or
24 not what had previously been saved was sufficient to
25 meet the claim language. You have to look at that 12:35:31

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1 language, compare it to what was saved, and then
2 make a determination.

3 So, again, this gets into the realm of
4 applying the claim language to determine if
5 something is within the scope or not, which is not 12:35:43
6 an exercise that I have taken for purposes of my
7 claim construction declarations.

8 BY MR. JAFFE:

9 Q Can you provide any examples of what would
10 be saved in the context of what you wrote here in 12:35:54
11 paragraph 73?

12 MR. RICHTER: Object to the form; scope.

13 THE WITNESS: I haven't tried to come up
14 with examples.

15 BY MR. JAFFE: 12:36:05

16 Q Can you right now provide me an example of
17 what would be saved?

18 MR. RICHTER: Same objection.

19 THE WITNESS: I have to give it some
20 thought. It's not in my declaration, so you're 12:36:13
21 essentially asking me to develop opinions on the
22 fly, which I would just need some time to think
23 about.

24 BY MR. JAFFE:

25 Q So looking back at figure 3A of the '206 12:36:26

1 Patent, which is also on the face of the patent, it
2 has a picture and it says "zone configuration/scene"
3 and then there is a bracket pointing to a block that
4 has bedroom, den, dining room in it.

5 Do you see that? 12:36:48

6 A I do.

7 Q In your opinion, is this figure correct?

8 MR. RICHTER: Object to the form.

9 THE WITNESS: I'm not sure what original
10 analysis I'm to use in determining whether this 12:37:03
11 figure is correct, as you characterized it.

12 BY MR. JAFFE:

13 Q Would you think it's a fair
14 characterization to say figure 3A is showing a zone
15 configuration? 12:37:15

16 A I think it is a visual representation of
17 what could be a zone configuration. So in the
18 context or the example of where the zone
19 configuration is a file or there's some
20 configuration data, then that configuration data can 12:37:33
21 be used to provide the graphical depiction shown in
22 paragraph 3A.

23 Q Would you agree this is also depicting a
24 Zone Scene, figure 3A?

25 A Given that there are competing 12:37:47

1 constructions, the idea that a Zone Scene -- well,
2 it depends on which construction potentially, so the
3 idea that I think we were describing earlier that
4 it's a predefined grouping of zone players.

5 So just looking at 3A, I would have to go 12:38:12
6 back and see if it would meet the elements of the
7 different proposed constructions. I certainly think
8 it could be.

9 Q Would you agree that figure 3A provides an
10 illustration of one Zone Scene? 12:38:28

11 MR. RICHTER: Object to the form.

12 THE WITNESS: Column 3, line 42 says figure
13 3A provides an illustration of one Zone Scene.
14 That's certainly what the patent says.

15 BY MR. JAFFE: 12:39:00

16 Q So would you agree that figure 3A provides
17 an illustration of a Zone Scene?

18 MR. RICHTER: Same objection.

19 THE WITNESS: It provides an illustration
20 of one Zone Scene. As to whether or not that's a 12:39:07
21 Zone Scene that would meet the different parties'
22 constructions for the particular claims, I think
23 that's ultimately a different question.

24 So I can tell you what the patent says and
25 I don't -- don't offer the opinion that the patent 12:39:20

1 is wrong when it describes figure 3A that way.

2 BY MR. JAFFE:

3 Q Does figure 3A show a zone configuration, a
4 Zone Scene, both, or neither?

5 MR. RICHTER: Object to the form; scope. 12:39:39

6 THE WITNESS: So I think what figure 3A is
7 showing conceptually is that you can have the kind
8 of information that would show the grouping of zone
9 players. As I testified to earlier, there could be
10 a configuration that is used to create that visual 12:39:59
11 representation. And I think it's pretty
12 straightforward from there, so it's not clear what
13 it means to say figure 3A is a zone configuration,
14 for example.

15 If that's configuration data and it's 12:40:20
16 stored in a file, typically you wouldn't store the
17 visual representation itself. But if you're
18 representing the data that's in the file, then your
19 question is difficult to answer.

20 BY MR. JAFFE: 12:40:40

21 Q Does figure 3A show configuration data?

22 MR. RICHTER: Same objection.

23 THE WITNESS: I think it shows the visual
24 representation of configuration data. I think
25 consistent with configuration data being more a 12:40:58

1 broader understanding of what a Zone Scene is.

2 Doesn't have the same constraints that a Zone Scene
3 has.

4 MR. JAFFE: Do we want -- I'm going to
5 change topics here. 12:41:32

6 Do we want to break for lunch?

7 THE WITNESS: Sure. It's a good time if
8 you are changing topics.

9 MR. JAFFE: Does that work for everyone
10 else? 12:41:42

11 MR. RICHTER: Works for me.

12 THE WITNESS: Go off the record and decide.

13 THE VIDEOGRAPHER: We're off the record at
14 12:41 p.m.

15 (Whereupon, a lunch recess was held 13:17:02
16 from 12:41 p.m. to 1:17 p.m.)

17 THE VIDEOGRAPHER: We are back on the
18 record at 1:17 p.m.

19 BY MR. JAFFE:

20 Q Welcome back, Dr. Almeroth. 13:17:12

21 A Thank you.

22 Q I wanted to follow up on one of the items
23 that we talked about this morning, and specifically
24 in paragraph 63 of your reply declaration, you
25 talked about a Zone Scene being framed from the 13:17:29

1 perspective of a user rather than being limited only
2 to its representation and computer data.

3 Do you recall that?

4 A Yes.

5 Q What I want to understand is, in your view, 13:17:42
6 a Zone Scene is something that is previously saved;
7 right?

8 A I'm thinking about the claim language. I
9 don't recall there being a limitation about saving,
10 so I'm not sure if you're talking about the 13:18:23
11 limitation or some sort of embodiment, like I
12 described it.

13 Q So let's go to paragraph 67. I think I
14 said 63. I may have misstated that. I meant 67.

15 A Okay. I'm at 67. 13:18:58

16 Q Here is the portion where you state that:

17 "A Zone Scene is a previously
18 saved, predefined group
19 configuration as framed from a
20 perspective of a user rather than 13:19:16
21 being limited only to its
22 representation and computer
23 data."

24 Do you see that?

25 A I see that. 13:19:22

1 Q And so if it's previously saved, it has to
2 be saved as a representation of data; correct?

3 MR. RICHTER: Object to the form, scope.

4 THE WITNESS: I think the pronoun at the
5 end of that sentence you're referring to the Zone 13:19:40
6 Scene? You said "it."

7 BY MR. JAFFE:

8 Q Yes, Zone Scene.

9 A Again, the idea is that the Zone Scene is
10 characterized by the zone configuration. I think 13:19:59
11 there's examples where the zone configuration is
12 described as a zone configuration file which is
13 saved and then can also be retrieved.

14 So the thing that stores the
15 characterization of the Zone Scene or the zone 13:20:18
16 configuration, but from the zone configuration,
17 among other places, while the zone configuration
18 characterizes the Zone Scene, so that's the thing
19 that's being saved, at least one embodiment.

20 Q Is zone configuration a word that has a 13:21:23
21 plain and ordinary meaning to one of skill in the
22 art in 2006?

23 MR. RICHTER: Object to the form; scope.

24 THE WITNESS: Your question didn't qualify
25 as to whether or not it was in light of the 13:21:39

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1 specification or the claims in the specification.

2 So outside of the scope of the claims, I
3 haven't really looked to see if that term has been
4 used in the same way in other context.

5 Or I'm sorry, if it -- I haven't looked to 13:22:16
6 see if that term has particular meanings in other
7 context.

8 BY MR. JAFFE:

9 Q What is the plain and ordinary meaning of
10 zone characterization in 2006 to one in the skill of 13:22:33
11 the art?

12 MR. RICHTER: Object to the form.

13 THE WITNESS: If you're asking outside the
14 scope of the claims, I don't think that's a position
15 that I've taken. 13:22:41

16 BY MR. JAFFE:

17 Q What is the plain and ordinary meaning of
18 group configuration in 2006 to a person of skill in
19 the art?

20 MR. RICHTER: Object to the form; scope. 13:23:01

21 THE WITNESS: If you're asking that
22 question outside of the scope of the claims of the
23 Zone Scene Patents, then that's not an opinion that
24 I believe I've offered.

25 /// 13:23:16

1 BY MR. JAFFE:

2 Q Are you aware that there's five patents
3 currently asserted in this case?

4 A Yes.

5 Q We've been talking about what we've 13:23:23
6 referring to as the Zone Scene Patents.

7 A Yes.

8 Q Have you reviewed any of the other patents
9 that are asserted in this case?

10 A I don't believe I have. To be more 13:23:34
11 precise, I certainly haven't reviewed those patents,
12 at least I don't recall reviewing those patents, as
13 a basis for the opinions that are contained in my
14 two declarations.

15 Q I think you -- are your declarations true 13:24:10
16 and accurate, to the best of your knowledge?

17 A They are.

18 Q Are there any corrections you would like to
19 make to them?

20 A Other than the one that we discussed 13:24:23
21 earlier, I am not aware of anything else, any other
22 typos that need to be put on the record.

23 Q I want to -- data network is one of the
24 terms you provided opinions about; correct?

25 A Yes. 13:25:11

1 Q Data network is a well understood term in
2 the networking field; correct?

3 A I think that it is a term that has meaning
4 to people of skill in the art. In a general sense,
5 as to kind of specifically what it means, sometimes 13:25:34
6 context is required.

7 Q Sorry.

8 My question was: The term data network is
9 a well understood term of art in the networking
10 field; correct? 13:25:55

11 MR. RICHTER: Object to the form;
12 foundation.

13 THE WITNESS: I think I answered that
14 question.

15 The term "data network" is something that's 13:26:02
16 used or would be used by a person in the skill of
17 the art, it's used by people in the field.

18 But in some cases it has a more specific
19 meaning, depending on its context, and I think that
20 at least the Zone Scene Patents use the term in that 13:26:21
21 way.

22 BY MR. JAFFE:

23 Q What is the plain and ordinary meaning of
24 data network to a person of ordinary skill in 2006?

25 A If you're asking about as the term has been 13:26:37

1 offered for construction, then I think it's a medium
2 that interconnects devices, enabling them to send
3 digital data packets to and receive digital data
4 packets from each other.

5 If you're asking outside of the scope of 13:26:57
6 these claims, the Zone -- in the Zone Scene Patents,
7 to some more generalized definition, that's not an
8 opinion that I've offered in this declaration.

9 Q You were reading something.

10 What were you reading from in that answer? 13:27:18

11 A From the Sonos's proposed construction that
12 I believe is the correct one, so that's -- I happen
13 to be reading from Exhibit 5 on page 5.

14 Q So you were reading from Sonos's proposed
15 construction? 13:27:38

16 A Yes.

17 Q Is Sonos's proposed construction, in your
18 opinion, is that the plain ordinary meaning of data
19 network, or is that a specialized construction for
20 purposes of, you know, in light of the intrinsic 13:27:51
21 record?

22 MR. RICHTER: Object to the form.

23 THE WITNESS: I'm not sure how to answer
24 that question. Sort of -- you set up with the
25 two -- the choices are mutually exclusive. I think 13:28:12

1 that that's how a person of skill in the art would
2 understand that term in the context of the Zone
3 Scene Patents.

4 BY MR. JAFFE:

5 Q Do the Zone Scene Patents redefine the term 13:28:26
6 "data network"?

7 MR. RICHTER: Object to form.

8 THE WITNESS: I don't think they redefine
9 the term. I think that the supporting language in
10 the claim demonstrates to a person of skill in the 13:28:50
11 art, particular requirements for what a data network
12 needs to be embodied within Sonos's construction.

13 BY MR. JAFFE:

14 Q Where is the word or -- is data network
15 required for claim of the '206 Patent -- let me ask 13:29:06
16 it again.

17 Is a data network required for claim one of
18 the '206 Patent?

19 MR. RICHTER: Object to the form; calls for
20 a legal conclusion. 13:29:21

21 THE WITNESS: So the term -- well, claim 1
22 recites receive via a network interface. That
23 network interface has been proposed for
24 construction. And let me -- so that construction
25 reads a physical component of the device that 13:30:32

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1 provides an inter connection with the data network.

2 So to meet the limitations of the claims,
3 you require that you receive via a network interface
4 as an apparatus claim. I don't believe you actually
5 have to have the network present, but you would need 13:30:51
6 a network interface that would meet the proposed
7 construction or what ultimately the court adopts as
8 the construction for network interface.

9 There might be other terms, but I think
10 that that's one way that a data network impacts 13:31:10
11 claim 1 of the '206 Patent.

12 BY MR. JAFFE:

13 Q Did the intrinsic record modify the plain
14 ordinary meaning of data network? Intrinsic record
15 of the Zone Scene Patents. 13:31:26

16 MR. RICHTER: Object to the form.

17 THE WITNESS: I don't recall with intrinsic
18 records setting forth sort of what sometimes style
19 the lexicography definition for data network. But
20 certainly as I describe in my declaration, there are 13:31:44
21 descriptions of what that data network is used for
22 that would help a person understand some of the
23 specific requirements as to what the data network
24 needs to be.

25 /// 13:32:00

1 BY MR. JAFFE:

2 Q Are you relying on any disclaimer in the
3 specification or prosecution with regard to data
4 network?

5 A I think ultimately that's a legal question, 13:32:07
6 but I don't recall issue of disclaimer being at
7 issue for claim construction as it relates to the
8 data network firm.

9 Q Would you then agree that the term "data
10 network" is used in accordance with this plain and 13:32:25
11 ordinary meaning with the zone form?

12 MR. RICHTER: Object to the form.

13 THE WITNESS: Again, I think the idea is
14 data network is a term of art. But with respect to
15 the specific requirements or characterizations of 13:32:38
16 what a data network is, I think that the patent sets
17 forth a good description that a person of skill in
18 the art would understand and is consistent with
19 Sonos's proposed construction and that those
20 requirements are consistent with how that term is 13:32:53
21 used or would be understood more generally by a
22 person with skill in the art.

23 BY MR. JAFFE:

24 Q Is there anywhere in the Zone Scenes
25 patents that does not use the term "data network" in 13:33:07

1 accordance with its plain and ordinary meaning?

2 MR. RICHTER: Object to the form.

3 THE WITNESS: Well, if -- not sure exactly
4 what you're asking.

5 My recollection -- I don't have a patent 13:33:24
6 memorized. My recollection of the uses of data
7 network are consistent with the construction that
8 Sonos has proposed.

9 BY MR. JAFFE:

10 Q I appreciate that. I mean, my question was 13:33:34
11 a little bit different.

12 Can you identify anywhere in the Zone Scene
13 Patents where the patents use the term not in
14 accordance with their plain and ordinary meaning?

15 MR. RICHTER: Object to the form. 13:33:50

16 THE WITNESS: You're re-asking the question
17 because your question used the plain and ordinary
18 meaning of the term, and I used Sonos's
19 construction.

20 And my understanding is that the 13:33:59
21 construction proposed by Sonos is the plain and
22 ordinary meaning of the term, so that's -- when you
23 say "plain and ordinary meaning of the term," I'm
24 applying how Sonos is defining that term.

25 /// 13:34:12

1 BY MR. JAFFE:

2 Q Your opinion is that Sonos's construction
3 is the plain and ordinary meaning of the term "data
4 network"; is that right?

5 MR. RICHTER: Object to the form. 13:34:19

6 THE WITNESS: I believe that the
7 construction that's described is the plain -- how a
8 person of ordinary skill in the art would understand
9 that term in the context of the Zone Scene Patents.

10 BY MR. JAFFE: 13:34:44

11 Q I'm a little confused.

12 Is Sonos's construction the plain and
13 ordinary meaning of the term "data network"?

14 MR. RICHTER: Object to the form.

15 THE WITNESS: So I'm now reading from 13:35:22

16 paragraph 56 in the opening brief. I think the best
17 way to express what my opinion is, is that Sonos's
18 construction is consistent with how you would see
19 and understand the term in the context of the Zone
20 Scene Patents. 13:35:43

21 And Google applies what it calls a plain
22 and ordinary meaning, but I think ultimately
23 disagrees that the plain and ordinary meaning is
24 what Sonos describes.

25 So your question is kind of ambiguous with 13:35:58

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1 respect to what plain and ordinary meaning you're
2 asking about.

3 BY MR. JAFFE:

4 Q In the field of networking -- well, let me
5 back up. 13:36:20

6 Are there any aspects of Sonos's proposed
7 construction that are different than the plain and
8 ordinary meaning of the term data network?

9 MR. RICHTER: Object to the form.

10 THE WITNESS: So, again, Google appears to 13:36:34
11 be applying the plain and ordinary meaning, but then
12 defines that construction so broadly as I think to
13 be inaccurately reflecting what the plain and
14 ordinary meaning would be, again.

15 So your question is ambiguous as to the 13:36:51
16 particular plain and ordinary that you're applying.

17 BY MR. JAFFE:

18 Q Do you have an understanding of what the
19 plain and ordinary meaning of the term "data
20 network" is? 13:37:01

21 MR. RICHTER: Object to the form.

22 THE WITNESS: So I believe Sonos's
23 construction is consistent with a person who would
24 understand that term. Whether or not you
25 characterize that as the plain and ordinary meaning, 13:37:13

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1 I'm not sure how to answer that question other than
2 to say that Sonos's proposed construction is
3 consistent with how a person of skill in the art
4 would understand the term in the context of the Zone
5 Scene Patents. 13:37:38

6 BY MR. JAFFE:

7 Q Are you aware of any data networks in the
8 2006 timeframe that would not meet Sonos's proposed
9 construction?

10 A Not as that term has been properly 13:37:46
11 construed.

12 Q I'm not sure -- I don't really understand
13 what that means.

14 A Your question is circular in the sense that
15 you said "data network," so it depends what 13:38:00
16 definition of data network is. So if you're
17 implying Sonos's proposed construction for data
18 network, then I'm not aware of any data networks
19 that don't meet that construction.

20 Q So in your opinion by definition, all data 13:38:19
21 networks comply with Sonos's proposed construction
22 because it's essentially a tautology; right?

23 MR. RICHTER: Objection; calls for a legal
24 conclusion.

25 THE WITNESS: I think the way you asked the 13:38:34

1 question, it was circular.

2 BY MR. JAFFE:

3 Q Okay. So you have no understanding of the
4 plain and ordinary meaning of data network, apart
5 from Sonos's proposed construction; true? 13:38:42

6 MR. RICHTER: Object to the form and to the
7 extent it mischaracterizes prior testimony.

8 THE WITNESS: What I can say is, I offered
9 an opinion that Sonos's proposed construction is how
10 a person of skill in the art would interpret the 13:38:58
11 term "data network" in the sense of the Zone Scene
12 Patents.

13 Your repeated use of plain and ordinary
14 meaning seems ambiguous as to what exactly you mean.
15 But basically all these questions you're asking, 13:39:12
16 when you say "plain and ordinary meaning," I'm not
17 exactly sure what you're referring to because
18 after -- this has alleged to apply the plain and
19 ordinary meaning, but done so in a way that I think
20 is inconsistent with how a person of skill in the 13:39:38
21 art would understand that term in the context of the
22 Zone Scene Patents.

23 BY MR. JAFFE:

24 Q Can you look at paragraph 31 of your
25 opening declaration. 13:39:47

1 A Okay.

2 Q Do you see there's a reference here to the
3 plain and ordinary meaning of a claim term?

4 A I see that.

5 Q So you understand what the plain and 13:40:06
6 ordinary meaning of a claim term is; correct?

7 A I understand that legal concept.

8 Q What is the plain and ordinary meaning of
9 the claim term "data network"?

10 A If you're asking me what the plain and 13:40:22
11 ordinary meaning is in the context of the Zone Scene
12 Patents, then it's what I described as Sonos's
13 proposed construction, which is a medium that
14 interconnects devices enabling them to send digital
15 packets to and receive digital packets from each 13:40:43
16 other.

17 Q So outside of the Zone Scene Patents, if a
18 fellow engineer came up and asked you what a data
19 network was or student, for example, what would you
20 tell them? 13:40:58

21 MR. RICHTER: Object to the form;
22 incomplete hypothetical.

23 THE WITNESS: Outside of this scope of
24 these patents, I haven't really offered an opinion
25 as to what that term would mean. 13:41:07

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1 It would somewhat depend on the context.

2 In general, though, I believe I've provided several
3 extrinsic references that describe what a data
4 network is that's consistent with how a person of
5 ordinary skill in the art would understand that
6 term.

13:41:23

7 BY MR. JAFFE:

8 Q Is there such a thing as analog data?

9 MR. RICHTER: Object to the form;
10 foundation, scope.

13:41:34

11 THE WITNESS: Yes.

12 BY MR. JAFFE:

13 Q There's also digital data; right?

14 MR. RICHTER: Same objection.

15 THE WITNESS: Yes.

13:41:46

16 BY MR. JAFFE:

17 Q So the word "data" by itself, that could
18 refer to either analog data or digital data; is that
19 fair?

20 A You would have to look at the context, but
21 it could refer to digital data or analog data.
22 Sometimes the context would actually limit what that
23 term could mean.

13:41:55

24 Q Do all data networks use packets?

25 MR. RICHTER: Object to the form;

13:42:17

1 foundation.

2 THE WITNESS: Could you repeat the
3 question?

4 BY MR. JAFFE:

5 Q Do all data networks use packets? 13:42:20

6 MR. RICHTER: Same objection.

7 THE WITNESS: I think the opinion that I've
8 offered is if you properly construe the term "data
9 networks" when it includes digital data packets, I
10 think there's one instance in the declaration where 13:42:37
11 I describe parenthetically it could be called
12 frames.

13 There's sometimes other terms like "cells"
14 that are used, but in general, the data networks as
15 properly construed would include data packets. 13:42:55

16 BY MR. JAFFE:

17 Q I appreciate that. I'm not sure that
18 actually answered my question, though.

19 Do all data networks use packets?

20 MR. RICHTER: Same objections. 13:43:08

21 THE WITNESS: I think I answered that
22 question.

23 BY MR. JAFFE:

24 Q You said, "Data networks as properly
25 construed." 13:43:19

1 Are you construing any claims today?

2 A Data network, as that term has been
3 proposed by Sonos. Sorry.

4 I mean, if that doesn't mean what I just
5 said, then I'm not sure exactly what the difference 13:43:35
6 would be, but I'm describing by description of the
7 construction, or what the construction is.

8 Q Right. I'm not asking you for a
9 description of Sonos's construction.

10 I'm just asking you: Is it possible to 13:43:52
11 have a data network that doesn't have packets?

12 MR. RICHTER: Object to the form;
13 foundation.

14 THE WITNESS: So if you're implying that
15 Sonos's proposed construction for data network, then 13:44:06
16 that construction includes the term "digital data
17 packets."

18 As I testified to a couple questions ago,
19 the idea is that it's packets or sometimes it's
20 called "frames" or sometimes called "cells," but 13:44:23
21 even though slightly different terms can be used,
22 it's essentially the same concept of a packet.

23 The idea where you have some framing that
24 delineates one packet from the next is an example.

25 /// 13:44:37

1 BY MR. JAFFE:

2 Q Are you familiar with something called
3 "packets switched networks"?

4 A Yes.

5 Q What are packet switched networks, in your 13:44:52
6 understanding?

7 A Hang on a second. The phone is ringing in
8 my hotel room. We just have to let it go.

9 You asked what are packet -- it's a network
10 that switches packets. 13:45:11

11 Q Were there any data networks before packet
12 switch networks were created?

13 MR. RICHTER: Object to the form.

14 THE WITNESS: That's not really a question
15 I tried to answer. 13:45:27

16 BY MR. JAFFE:

17 Q Are you familiar with circuit switch
18 networks?

19 A Yes.

20 Q Are those data networks? 13:45:37

21 MR. RICHTER: Object to the form; calls for
22 a legal conclusion.

23 THE WITNESS: It depends on what you mean
24 by "circuit switch network."

25 /// 13:45:49

1 BY MR. JAFFE:

2 Q So what's your understanding of a circuit
3 switch network?

4 A It depends. It has multiple definitions
5 depending on context. 13:45:56

6 Q Okay. Please provide your understanding of
7 the most common form of circuit switch network.

8 A It depends. I mean, it covers lots of
9 different kinds of networks, so you would have to be
10 more specific in your question. 13:46:12

11 Q Okay. Is it possible for a circuit switch
12 network to be a data network?

13 MR. RICHTER: Object to the form; calls for
14 a legal conclusion.

15 THE WITNESS: If, as an example, of a 13:46:26
16 circuit switch network you're thinking of something
17 like ATM, then very likely it would meet the
18 proposed construction for a data network. But I
19 would have to give it some more thought.

20 BY MR. JAFFE: 13:46:45

21 Q Circuit switch networks can send
22 non-packetized data; correct?

23 A You would have to give me an example of one
24 you had in mind.

25 Q You don't have any understanding of whether 13:46:57

1 they could -- circuit switched networks can or
2 cannot send non-packetized data?

3 MR. RICHTER: Object to the form.

4 THE WITNESS: It depends on how you're
5 using those terms, so you have to be more specific 13:47:09
6 as to what kind of network you're talking about.

7 BY MR. JAFFE:

8 Q Okay. So you're not opining one way or
9 another on whether circuit switch networks could or
10 could not send non-packetized data? 13:47:22

11 THE WITNESS: Can we take a break? I'm
12 sorry, there's a pending question and someone's
13 knocking at my hotel room.

14 MR. JAFFE: I'll withdraw the question.

15 THE WITNESS: Thanks. Hold on. 13:47:39

16 THE VIDEOGRAPHER: We're off the record at
17 1:47 p.m.

18 (Whereupon, a recess was held
19 from 1:47 p.m. to 1:48 p.m.)

20 THE VIDEOGRAPHER: We're back on the record 13:48:25
21 at 1:48 p.m.

22 MR. JAFFE: I assume that wasn't Mr.
23 Circuit Switch Packet coming at the door.

24 BY MR. JAFFE:

25 Q So I'll ask my question. 13:48:38

1 Dr. Almeroth, you're not opining one way or
2 another whether circuit switch networks could or
3 could not send packetized data?

4 A I believe in the declaration there are
5 examples of circuit switch networks that are 13:48:49
6 described as not meeting the construction for a data
7 network. And I believe those are in the rebut of
8 the reply declaration.

9 The idea if you have the plain old
10 telephone service with circuit switches and all 13:49:09
11 you're carrying is analog data, that would be an
12 example of something that's not a data network.

13 Q You mentioned that you testified on behalf
14 of Sonos at the ITC; correct?

15 A Yes. 13:49:27

16 Q Did you testify regarding claim
17 construction during that proceeding?

18 A I did.

19 Q Did you review the ALJ's claim construction
20 order? 13:49:39

21 A At some point I did, yes.

22 MR. JAFFE: I'm going to mark this I just
23 marked Exhibit 6. That should be available to you
24 now.

25 /// 13:51:17

1 (Whereupon, Defendant's Exhibit 6 was
2 marked for identification by the
3 Court Reporter.)

4 THE WITNESS: Reloading. I see it. I will
5 download it now. 13:51:25

6 Okay. I've got it up.

7 BY MR. JAFFE:

8 Q Did you understand that one of the issues
9 that the ALJ and the staff were considering was
10 whether data network should be restricted to 13:52:08
11 transferring digital data packets between devices?

12 A I think the record speaks for itself as to
13 what was at issue. I mean, certainly both Google
14 and Sonos will make characterizations about what
15 this order describes, so I think I'll just let the 13:52:32
16 document speak for itself.

17 Q So let's look at page 16 through 17 of
18 Exhibit 6.

19 A Okay. You want to tell me the Bates
20 number. 13:53:07

21 Q It's 201.

22 A Page 16 at the bottom of the page. I got
23 it.

24 Q The internal pagination.

25 Here it says the staff, which you 13:53:26

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1 understand refers to the ITC staff; correct?

2 A Yes.

3 Q The staff here says that local area
4 networks should be given its plain and ordinary
5 meaning; right? 13:53:38

6 A That's where it starts, yes.

7 Q And the staff says that -- I'm paraphrasing
8 a little bit.

9 The staff here says that limiting data
10 network to transferring digital data packets between 13:53:52
11 digital devices is inconsistent with the intrinsic
12 evidence and pertinent extrinsic evidence.

13 Do you see that?

14 MR. RICHTER: I'm going to object on the
15 grounds that the document speaks for itself. 13:54:06

16 I think actually "staff" refers to
17 something other than ITC.

18 I'll just object on the basis the document
19 speaks for itself.

20 MR. JAFFE: Go ahead, Doctor. 13:54:25

21 THE WITNESS: I'm with you. I can read
22 along with what you're reading from in these
23 paragraphs.

24 BY MR. JAFFE:

25 Q Does -- do you disagree with what's written 13:54:32

1 here in this paragraph in Exhibit 6?

2 A So, again, I think the document will speak
3 for itself. I think ultimately with respect to
4 whether or not data network was something that was
5 fully briefed and I was given an opportunity or 13:54:52
6 provided the same kind of analysis that I provided
7 here, I'm assuming both parties will weigh in.

8 But ultimately whatever constructions were
9 offered in the ITC, I accepted for purposes of that
10 investigation and I believe that my opinions in this 13:55:13
11 case are based on the evidence that I've provided.

12 MR. JAFFE: I'm going to move to strike as
13 nonresponsive.

14 BY MR. JAFFE:

15 Q So the order -- would you agree that the 13:55:42
16 order finds that data network is not restricted to a
17 data network for transferring digital data packets
18 between network devices; correct?

19 MR. RICHTER: Objection to the form and
20 calls for a legal conclusion. 13:55:57

21 THE WITNESS: So if you're moving to strike
22 my answers that are intending to provide some
23 explanation, then the only thing I can say is that
24 the document speaks for itself and that will be the
25 extent of my answers with respect to Exhibit 6. 13:56:10

1 BY MR. JAFFE:

2 Q Okay. So is it fair to say that you can't
3 say one way or another whether you agree or disagree
4 with what's in Exhibit 6?

5 MR. RICHTER: Objection to the extent it 13:56:25
6 mischaracterizes testimony, the document speaks for
7 itself as well.

8 THE WITNESS: So with respect to the
9 opinions that I expressed, I put those in the
10 declarations before the ITC. Whether the ITC 13:56:38
11 addressed the specific issue that's presently before
12 this court as it relates to claim construction, I
13 don't know that they're exactly the same.

14 So I think the document speaks for itself
15 with respect to what the issues were and then what 13:56:57
16 the ALJ ultimately ruled in the ITC.

17 BY MR. JAFFE:

18 Q Do you acknowledge that the ITC disagreed
19 with your construction of data network as you're
20 offering it in this lawsuit? 13:57:16

21 MR. RICHTER: Object to the form and scope.

22 THE WITNESS: I'm not sure what you're
23 asking. I'm not sure what you mean by did I
24 acknowledge. And your characterization of what the
25 document -- again, I think the document speaks for 13:57:32

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1 itself. I don't really have much else to add with
2 respect to what that process was.

3 BY MR. JAFFE:

4 Q Can you have a unidirectional network?

5 MR. RICHTER: Object to the form, 13:58:13
6 foundation, scope.

7 THE WITNESS: The construction for data
8 network that I think is correct means that you have
9 to be able to send digital data packets and receive
10 digital data packets. 13:58:28

11 I'm not sure what the scope of
12 unidirectional networks would look like. I mean, I
13 can give you some background on this issue. I think
14 it's addressed in the declaration.

15 BY MR. JAFFE: 13:58:55

16 Q If I'm understanding your answer, you're
17 basically saying that Sonos's construction requires
18 bi-functionality, so, therefore, you can't have a
19 unidirectional data network; is that right?

20 MR. RICHTER: Object to the form to the 13:59:09
21 extent it mischaracterizes.

22 THE WITNESS: That's not my testimony.

23 BY MR. JAFFE:

24 Q Okay. So can you have a unidirectional
25 data network or not? 13:59:16

1 MR. RICHTER: Object to the form.

2 THE WITNESS: You've asked that question
3 and I've answered it. It's in the record. If you
4 would like me to answer it again, I point you to the
5 record. And if that's not sufficient, I can try and
6 summarize what my answer was previously.

13:59:27

7 BY MR. JAFFE:

8 Q Okay. I'm not sure what the answer is. I
9 didn't know you were pointing to your declaration,
10 so let me ask it a different way.

13:59:39

11 Can you provide me any examples of data
12 networks that are unidirectional?

13 MR. RICHTER: Object to the form; scope.

14 THE WITNESS: It depends what you mean by
15 "unidirectional."

13:59:53

16 BY MR. JAFFE:

17 Q How so?

18 A Well, so I know Dr. Kyriakakis has
19 characterized or made some description of token
20 rings and alleged that it's unidirectional. That
21 network allows devices to send and receive digital
22 data packets.

14:00:11

23 Though if he wants to call that a
24 unidirectional network, then I think that that's an
25 example of a unidirectional network that would meet

14:00:32

1 Sonos's construction for data network.

2 Q So does your understanding of the term
3 "data network" exclude networks in which devices
4 send data in only one direction?

5 MR. RICHTER: Object to the form. 14:00:58

6 THE WITNESS: That's incomplete. So if
7 you're saying that they can only send digital data
8 packets and they cannot receive digital data
9 packets, then that would be an example of a network
10 that would not be a data network under Sonos's 14:01:15
11 proposed construction.

12 BY MR. JAFFE:

13 Q Have you ever used the phrase "data
14 network" in a manner inconsistent with Sonos's
15 proposed construction? 14:01:58

16 MR. RICHTER: Object to the form;
17 foundation, scope.

18 THE WITNESS: As I sit here now, I'm not
19 aware of any instance where I have used that term
20 inconsistently with Sonos's proposed construction. 14:02:19

21 The only caveat I would add is, as I
22 testified to earlier, sometimes the context provides
23 more clarity as to what the requirements are. So it
24 might depend on the particular instance in what I --
25 and where I've used that term, and I would have to 14:02:39

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1 see that instance and assess whether or not I
2 thought it was inconsistent or consistent or even a
3 relevant example to how that term is used in Zone
4 Scene Patents.

5 BY MR. JAFFE: 14:03:03

6 Q When you transmit voice across a network,
7 that's transmitting data over a network; correct?

8 MR. RICHTER: Object to the form.

9 THE WITNESS: Your question is essentially
10 an incomplete hypothetical, so the answer is, it 14:03:23
11 depends.

12 BY MR. JAFFE:

13 Q What does it depend on?

14 A Whether or not, for example, you're sending
15 digital voice, whether or not your definition of 14:03:41
16 data is broad enough to allow for analog data or
17 not. Those are two issues I have with your
18 question.

19 Q So voice can be sent in analog form over a
20 network; fair? 14:04:04

21 A Voice can be sent -- well, even that is
22 vague.

23 This goes to the issue of you can have
24 digital voice decoded as ones and zeros and sent
25 over a network as analog. The signals that are sent 14:04:24

1 over networks are all analog signals.

2 So your question is vague with respect to,
3 is the voice data that's being sent analog or
4 digital? And ultimately because all data over the
5 network is analog, transmitting analog voice is the 14:04:41
6 idea that it could still be digital voice sent as an
7 analog way form.

8 So if you want to be specific in terms of
9 technical accuracy, you have to make the scenario
10 more clear. 14:05:02

11 Q The references to digital data packets and
12 bi-directionality, what you're proposing as a
13 construction for data network, you are -- those
14 concepts are coming from the specification of the
15 Zone Scene Patents; is that correct? 14:05:50

16 MR. RICHTER: Object to the form.

17 THE WITNESS: So two things.

18 You characterized the construction of
19 "bi-directionality." That's not the words used in
20 the construction. And given the ambiguity that 14:06:01
21 Dr. Kyriakakis has introduced around unidirectional
22 and bidirectional, it's not really an accurate
23 reflection of what the proposed construction is.

24 Then the second part is ultimately what
25 I've testified to, I believe, is that there is 14:06:18

1 intrinsic support in the patents that show that the
2 term "data network" is being used in a way that I
3 think is consistent with Sonos's proposed
4 construction.

5 BY MR. JAFFE:

14:06:55

6 Q So I just want to go back to something you
7 mentioned before where you said that when you're
8 actually transmitting the data, at the end of the
9 day, it's all going to be in analog form; correct?

10 A Transmission over networks are
11 traditionally typically analog.

14:07:10

12 Q Because it's either going to be a radiowave
13 or it's going to be something else, an actual
14 physical form, but it's not going to be digital, at
15 least at that point; is that fair?

14:07:26

16 A Typically the medium -- the media carry
17 analog signals. I think you're right, it's a radio
18 frequency wave, radiowave, can be a light pulse.
19 Even the example I give my students is a CD. You're
20 still measuring the depth of a pit burned onto the
21 CD and now that can be representative of digital
22 data, or it can be analog data.

14:07:48

23 So analog data over an analog medium or
24 digital media over an analog medium.

25 Q Let's go forward with the CD example to try

14:08:08

1 and tease this out a little bit.

2 You said it's measuring a pit. I'm not an
3 expert on CDs, but if I'm understanding this
4 correctly, either what's being measured there can
5 be -- refer back to a piece of digital data or it 14:08:24
6 could possibly refer to analog data; is that fair?

7 A In the context of a CD, I'm not sure how
8 you would -- I mean, if it's referring back to
9 analog data, it would have had to have gone through
10 some encoding process. 14:08:50

11 The idea is that the depth of the pit would
12 match up to some sort of binary value which would be
13 a digital value. So you could start with a simple
14 example where you either had a pit or you didn't.
15 You could say if you had a pit, it was a value of 14:09:07
16 one. And if you didn't, you would have a value of
17 zero.

18 The technology for creating those pits and
19 interpreting the signals gives you much more
20 granularity, so then you can have something like 16 14:09:21
21 different depth levels of a pit. So 16 different
22 values would give you four different bits. 0000 to
23 1111. And so that would be digital data.

24 Now, that digital data could have been
25 encoded from analog data, say, for example, a song, 14:09:40

1 or it could have been from its own digital data,
2 like a document with letters and numbers in it that
3 are themselves discreet quantities that mean
4 something.

5 So if we're talking about a CD, generally 14:09:57
6 the thing that gets encoded on the CD is some kind
7 of digital data that's representative of something.

8 Q I guess like a record player would be
9 something that would be analog?

10 A If you go back to the old days of vinyl, 14:10:16
11 generally that's supposed to all be analog.

12 Q So when you're saying that the data network
13 has to represent kind of digital data, you're not
14 saying that what is transmitted over the network is
15 analog or digital, what you're saying is that the 14:10:34
16 actual information that's represented there has to
17 be represented at some point in ones and zeros; is
18 that fair?

19 MR. RICHTER: Object to the form,
20 incomplete hypothetical. 14:10:47

21 THE WITNESS: There's part of your
22 characterization I would agree with. Again, there's
23 a little ambiguity in your characterization with
24 respect to transmitted.

25 But if it's -- we're talking about the 14:10:59

1 signal, or the signal over the network is analog
2 when we talk about something like digital data
3 packets, it's referring to the data right before
4 it's transmitted and that typically is in some sort
5 of representation of ones and zeros. 14:11:15

6 You could think of a computer, what we're
7 doing now, my voice gets encoded as a series of ones
8 and zeroes. Those get sent over the Internet.
9 They're sent as digital data packets.

10 BY MR. JAFFE: 14:11:34

11 Q To make sure I've got the terminology
12 right, what do you mean by "digital"?

13 A Digital would be ones and zeros, something
14 like a discreet value. I think there's a portion in
15 my dec that describes that specifically. 14:11:46

16 Q What is analog in the context that we've
17 been discussing it?

18 A So analog would be some sort of continuous
19 wave form, or what occurs in nature for signals.

20 Q What is a packet? 14:12:04

21 MR. RICHTER: Object to the form;
22 foundation.

23 THE WITNESS: So you're kind of asking to
24 construe the construction. I mean, generally
25 packets -- I can think of examples of packets, 14:12:15

1 things like IP packets, consistent with testimony
2 earlier, you could also call something like an
3 Ethernet frame, ATM cell. Sometimes there's
4 different words for kind of examples of what data
5 packets might be. 14:12:33

6 BY MR. JAFFE:

7 Q So I want to go back to your opening
8 declaration.

9 A Okay.

10 Q Particularly paragraph 62. 14:13:13

11 A I'm there.

12 Q The first cite you have here is column 5,
13 lines 14 through 26.

14 Do you see that?

15 A Yes. I see that. 14:13:33

16 Q This is describing an embodiment, correct,
17 what you're saying here?

18 A Was your question is or isn't?

19 Q Is, I-S.

20 A I mean, there's different portions. 14:14:13

21 There's some that are highlighted. But, for
22 example, if you look at the first part, it says the
23 network interface 202 facilitates a dataflow between
24 the data network. In other words, the data network
25 108 of figure 1 -- maybe this calls for a legal 14:14:31

1 conclusion.

2 But whether or not this is interpreted as
3 an embodiment or the only embodiment, I'm not aware
4 of other portions of the specification that describe
5 the data network, or in this case, the network 14:14:53
6 interface that's inconsistent with Sonos's proposed
7 construction.

8 Q So here it refers to network interface 202.

9 Do you see that?

10 A I do. 14:15:25

11 Q If you look at in the 206 specification,
12 column 5, line 9 --

13 A Okay.

14 Q -- do you see how it describes it as an
15 exemplary functional block diagram? 14:15:51

16 A I see that.

17 Q So this is an example; is that right?

18 A When you say "this," it's referring to
19 figure 2A. Again, there's two questions here. One
20 is whether or not the network interface that's shown 14:16:09
21 within 2A is being described as exemplary, or if
22 it's just the arrangement of the components in the
23 block diagram. And then also be a question whether
24 or not this is the only embodiment that's described.

25 So other than saying I see the word 14:16:29

1 exemplary as it relates to the functional block
2 diagram, I suspect there's other considerations to
3 keep in mind.

4 Q Do you dispute that figure 2A is exemplary
5 functional block diagram of a zone player in 14:16:45
6 accordance with the present invention of the '206
7 Patent?

8 MR. RICHTER: Object to the form.

9 THE WITNESS: If you're reading accurately
10 from the document from the patent, I don't dispute 14:16:54
11 that that's what appears there.

12 BY MR. JAFFE:

13 Q So in order to have a network interface, do
14 you have to have the same exact network interface
15 that's described here in the context of figure 2A? 14:17:26

16 MR. RICHTER: Object to the form.

17 THE WITNESS: I think ultimately what
18 controls is what the claim language says and what
19 the claim language requires.

20 BY MR. JAFFE: 14:17:37

21 Q Well, to have a network interface, do you
22 have to have exactly what's described here with
23 respect to figure 2A?

24 MR. RICHTER: Same objection.

25 THE WITNESS: Again, you seem to be lumping 14:17:48

1 all of the description as to what figure 2A is. I
2 think ultimately it's a legal question with respect
3 to what the claim language requires versus the
4 description of the network interface.

5 And then also examples of what -- I'm 14:18:04
6 sorry -- exemplary language as it relates to what
7 the network interface is described as doing, but it
8 says -- we can just read it, as well as I can, that
9 by the time you get to line 14, it says the network
10 interface 202 facilitates the dataflow between the 14:18:28
11 network -- data network and the zone player, and
12 then it uses the word "typically."

13 So you would have to look at that and say,
14 well, there's aspects of what the network interface
15 requires, then typically executes a special set of 14:18:45
16 rules, whether or not that's required or what it
17 typically might do, and then as I testified to
18 ultimately, it's what the claim language requires.

19 BY MR. JAFFE:

20 Q In your opinion, does this portion 14:19:00
21 described in figure 2A change the plain meaning of
22 the term "data network"?

23 MR. RICHTER: Object to the form; calls for
24 a legal conclusion.

25 THE WITNESS: It's hard for me to answer 14:19:15

1 that question. I think, again, that with the
2 construction that Sonos has proposed that I believe
3 is accurate is consistent with how a person skilled
4 in the art would understand the term.

5 I mean, the term, as it's used beyond the 14:19:31
6 patents, but I think ultimately the patents -- the
7 person of skill in the art would have the meaning
8 described to it based on the claims in the
9 specification.

10 BY MR. JAFFE: 14:19:56

11 Q Let me ask it more broadly.

12 Sitting here today, are you aware of any
13 portions of the Zone Scenes patents that modify or
14 change the plain and ordinary meaning of data
15 network? 14:20:09

16 MR. RICHTER: Object to the form.

17 THE WITNESS: Well, I think -- I'm not sure
18 how to answer that question. It really depends on
19 how much detail is in that plain and ordinary
20 meaning. So I think that the scope of my opinion is 14:20:23
21 that I'm describing how a person skilled in the art
22 would understand the term "data network" in the
23 context of the Zone Scene Patents and such an
24 understanding is consistent with the extrinsic
25 evidence and definitions that I've provided. 14:20:48

1 So whether or not there's a change or a
2 difference in some context is not really a question
3 I've analyzed. I think it's consistent with the
4 extrinsic record.

5 In fact, sorry, there's a whole subsection 14:21:22
6 on that in the opening declaration starting at
7 paragraph 67.

8 BY MR. JAFFE:

9 Q In your declaration -- and I can give you
10 the specific cites here -- you refer to multimedia, 14:22:30
11 but you also refer to media.

12 Is there any difference in meaning between
13 multimedia and media, in your opinion?

14 MR. RICHTER: Object to the form; scope and
15 calls for a legal conclusion. 14:22:49

16 THE WITNESS: I would have to look at the
17 specific instances that you have in mind. I think
18 the context should make it pretty clear what I'm
19 referring to.

20 BY MR. JAFFE: 14:23:15

21 Q So, for example, in paragraph 14 of your
22 opening declaration, you talked about streaming
23 media capabilities, and then in the prior paragraph,
24 paragraph 13, you refer to multimedia content and
25 multimedia based applications. 14:23:46

1 Why did you use the word "media" in one
2 place and "multimedia" in another?

3 MR. RICHTER: Object to the form.

4 THE WITNESS: I don't think that there is a
5 particular reason. I think consistent with my 14:23:58
6 testimony earlier when you were asking about
7 multimedia, you can use the term "multimedia" to
8 refer to content that's not text. In some cases,
9 you can use multimedia to refer to extensively one
10 or more types of media. 14:24:26

11 So, for example, the last sentence of 13
12 also uses the term "media," so the delivery of media
13 through multi tasks. So that can refer to one type
14 of media, it can refer to multiple types of media,
15 either independently or synchronized together. 14:24:43

16 Same thing for paragraph 14 when it talks
17 about the streaming media capabilities. So from a
18 capability perspective, the Internet can just carry
19 data, whether or not that's data of a single type
20 or, for example, data that's just audio or data 14:25:02
21 that's just video or data that's a combination of
22 audio or video. Generally the Internet has the
23 capability to do any of those situations.

24 The middle of paragraph 14 says we're
25 developed to deliver multimedia content to users. 14:25:25

1 Again, in the context of what that particular
2 project was, you can deliver just audio, audio and
3 video independently.

4 So, say -- good example is people would
5 focus their camera on a fish tank, so there would be 14:25:46
6 no audio, it would just be video, or you could have
7 a meeting conference that would be a combination of
8 audio and video.

9 So I guess the point is, I'm not aware of a
10 definition of multimedia that limits it to being two 14:26:01
11 or more types of media. That's how I've used the
12 term.

13 BY MR. JAFFE:

14 Q What is the prefix multi in the word
15 "multimedia" indicate? 14:26:18

16 MR. RICHTER: Object to the form; calls for
17 a legal conclusion.

18 THE WITNESS: So I think in a general
19 sense, multi can mean a couple of different things.
20 It either refers to multiple media types and 14:26:31
21 capability or multiple media types as an option for
22 one or the other.

23 So even if you look at the first part of
24 paragraph 13, says:

25 "Although the early Internet 14:26:52

1 was used mostly for text based
2 non-realtime applications, the
3 interest in sharing multimedia
4 content such as video quickly
5 developed." 14:27:01

6 So, I mean, there's an instance where
7 multimedia in a general sense can refer
8 to different types of nontext, but not
9 requiring that different types means
10 both types or two of -- two different 14:27:15
11 types carried together or capability to
12 process two or more types.

13 BY MR. JAFFE:

14 Q Did the Zone Scene Patents redefine the
15 term "multimedia," in your opinion? 14:27:50

16 MR. RICHTER: Object to the form.

17 THE WITNESS: It's not really a question I
18 sought to answer.

19 Again, with respect to redefining the term,
20 I think my previous answers articulated that 14:28:07
21 multimedia refers to basically one or more types of
22 media, other than for example text.

23 So I'm not sure to even know how to start
24 to answer the question whether or not the patents
25 redefine that term. 14:28:34

1 BY MR. JAFFE:

2 Q Outside of these patents, you would agree
3 with the term "multimedia" requires multiple forms
4 of media; right?

5 MR. RICHTER: Object to the form; scope. 14:28:42

6 THE WITNESS: Absolutely not. That's not
7 how I've used it in the paragraphs you pointed to in
8 the declaration.

9 I know Google has pointed to a previous
10 declaration to suggest that's how I used the term. 14:28:55

11 Again, if you look at the paragraph after that one
12 in the declaration, it shows that I've used the term
13 to refer to one or more different types of media,
14 typically not being text. Audio alone, audio and
15 video, video alone. Those kinds of -- types of 14:29:12
16 multimedia are consistent with how I've used the
17 term even in this declaration.

18 BY MR. JAFFE:

19 Q So video alone would qualify as multimedia;
20 is that right? 14:29:27

21 MR. RICHTER: Object to the form.

22 THE WITNESS: That's just what that
23 sentence says. Although the early Internet was used
24 mostly for text-based, non-realtime applications.
25 The interest in sharing multimedia content, such as 14:29:38

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1 video, quickly developed.

2 Now, the next sentence says "multimedia
3 based content." So you can have content that's
4 either audio, video, audio and video together. The
5 term is broad enough and flexible enough to cover 14:29:59
6 situations of one or more types of media.

7 BY MR. JAFFE:

8 Q When you're referring to video, are you
9 referring to video as in pictures and sound, or just
10 pictures? 14:30:15

11 A As I testified to a second ago, the example
12 here can include just video alone. So the fish
13 tanks example, you wouldn't send audio.

14 In fact, in the early days of the Internet,
15 audio and video streams were carried separately and 14:30:31
16 it was a challenge to actually try and get those
17 synchronized. Now their protocols like RTP that
18 will help with that. But in the early days, they
19 were really just independent streams and they were
20 still called multimedia -- stream was called a 14:30:49
21 multimedia stream.

22 Q So in your opinion, the word "multimedia"
23 can include video by itself with no sound?

24 A I believe it can. In fact, I think that's
25 what that sentence in paragraph 13 is referring to. 14:32:06

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1 Q Okay. I just want to make sure we were on
2 the same page because maybe someone can think video
3 includes both audio and video together.

4 A Right. I think the idea that multimedia is
5 specifically and narrowly defined to require two or 14:32:27
6 more types of media integrated together I think is
7 an overly narrow interpretation of the term
8 "multimedia" and certainly is not how the patent
9 uses it.

10 Q We touched on this a little bit earlier in 14:32:47
11 the context of data network. I want to move to the
12 term "network interface."

13 A Okay.

14 Q "Network interface" is a commonly used word
15 in the field of networking; correct? 14:32:58

16 MR. RICHTER: Object to the form;
17 foundation, scope.

18 THE WITNESS: Well, it's not a term that
19 I've opined on in my declaration. Certainly I am
20 aware that the term "network interface" has been 14:33:10
21 used at least in a general sense outside of the
22 scope of these patents.

23 BY MR. JAFFE:

24 Q What's your understanding of what a network
25 interface is? 14:33:21

1 MR. RICHTER: Object to the form;
2 foundation, scope.

3 THE WITNESS: The whole issue of network
4 interface is a proposed term for construction in the
5 context of these patents and is not one that I 14:33:31
6 opined on. So what that term could mean outside the
7 scope of these patents, I haven't really thought
8 about in the context of these declarations.

9 BY MR. JAFFE:

10 Q You're not offering any opinions on what 14:33:44
11 network interface means in the context of these
12 patents?

13 A It's my recollection that because the term
14 "data network" is incorporated into the construction
15 of network interface, I'm at least offering the 14:33:57
16 opinion as to what data network means. But I don't
17 recall in the declarations that I specifically have
18 taken on the issue as to what a network interface
19 should be -- how it should be construed in the Zone
20 Scene Patents. 14:34:18

21 Q Got it.

22 So let's turn to local area network.

23 What is a local area network, in your
24 opinion?

25 MR. RICHTER: Object to the form; 14:34:43

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1 foundation, scope.

2 THE WITNESS: Again, I believe that is not
3 a term at issue for the Zone Scene Patents, so I
4 don't have an opinion beyond just the description
5 that's contained in the declaration.

14:35:00

6 So I understand that that's a term -- I
7 believe it's a term at issue for the other patents
8 asserted by Sonos. So in the context of those
9 patents, I don't have an opinion what the term
10 means.

14:35:16

11 BY MR. JAFFE:

12 Q I want to turn back to the '206 Patent.

13 A Okay.

14 Q Did you consider claim 17 in arriving at
15 your claim construction opinions?

14:36:13

16 MR. RICHTER: Objection; form.

17 THE WITNESS: I understand it's an asserted
18 claim and I certainly would have reviewed the claim
19 in the context of forming my opinions. I don't
20 recall if there was some particular aspect of that
21 claim that was relevant to a particular opinion. To
22 the extent it was relevant, I would have included it
23 in the declarations.

14:36:28

24 BY MR. JAFFE:

25 Q Do you understand what's described in the

14:36:46

1 claim 17?

2 A Well, I have the claim up in front of me.

3 I see what it says with respect to positions I've

4 taken in these declarations for terms in those

5 claims, then I offered opinions about them. 14:37:03

6 Everything else depends on what you would ask.

7 Q Depends on what I ask on whether or not you

8 understand it?

9 A It's to the depth of my understanding as it

10 relates to a specific question. 14:37:17

11 Q Okay. Let me ask my question again, make

12 sure we're not talking past each other.

13 Do you understand what's described in claim

14 17 of the '206 Patent?

15 MR. RICHTER: Object to the form. 14:37:28

16 THE WITNESS: I do generally.

17 BY MR. JAFFE:

18 Q So the preamble of claim 17 refers to a set

19 of instructions.

20 Do you see that? 14:37:43

21 A I do.

22 Q What do you understand instructions to

23 refer to there?

24 MR. RICHTER: Object to the form;

25 foundation and scope. 14:37:50

1 THE WITNESS: I haven't taken a position on
2 what that term means. I understand it's also a
3 disputed term. I think in the context of not so
4 much the preamble, but another portion, and so I
5 haven't offered opinions about either parties' 14:38:07
6 construction and which one is correct.

7 BY MR. JAFFE:

8 Q Where is your understanding that it's a
9 disputed term in another portion?

10 Where does that understanding come from? 14:38:28

11 A I believe it comes from Google's brief,
12 construction brief, that I mentioned earlier.

13 Q Okay.

14 A I believe subsection -- sorry -- section 3
15 Q and R, the term -- at least Q is longer. I'm not 14:38:50
16 going to read it for the 033 patent. And then for R
17 wherein the instruction comprises construction.

18 THE REPORTER: I'm sorry. "And R where the
19 'construction' comprises construction"?

20 THE WITNESS: Where the instruction 14:39:09
21 comprises an instruction.

22 BY MR. JAFFE:

23 Q Can you give me an example of what would
24 comprise an instruction, as that term is used in
25 claim 17 of the '206 Patent? 14:39:31

1 MR. RICHTER: Object to the form; outside
2 the scope.

3 THE WITNESS: No, I don't have an example.
4 It's not something I really looked at in forming the
5 opinions that are contained in my two declarations. 14:39:42

6 MR. JAFFE: Why don't we take our next
7 break, if that's all right.

8 THE WITNESS: Sure.

9 MR. RICHTER: Sure.

10 MR. JAFFE: Should we do five or ten 14:40:40
11 minutes?

12 THE WITNESS: Depends how long you need,
13 Jordan.

14 THE VIDEOGRAPHER: We're off the record at
15 2:40 p.m. 14:40:50

16 (Whereupon, a recess was held
17 from 2:40 p.m. to 2:51 p.m.)

18 THE VIDEOGRAPHER: We're back on the record
19 at 2:51 p.m.

20 BY MR. JAFFE: 14:51:47

21 Q We're going to change gears again. If we
22 can go to paragraph 69 of your reply declaration.

23 A Okay.

24 Q So I wanted to ask you about the sentence
25 at the top of page 21, and I'm just going to quote 14:52:24

1 the part of it. It's a longer sentence. I won't
2 read the entire thing on the record.

3 The part I wanted to ask you about says,
4 quote:

5 "Intended to collectively 14:52:37
6 define the confines of the
7 claimed Zone Scene."

8 Do you see that?

9 A I do.

10 Q What did you mean by, "Collectively define 14:52:44
11 the confines of the claimed Zone Scene"?

12 A So the idea here is that the language in
13 the claim, at least claim one of the '206 Patent
14 said each Zone Scene identifying a group
15 configuration associated with two or more of the 14:53:04
16 plurality of independent playback devices.

17 So in this sense, group configuration,
18 which is what this sentence is talking about,
19 appears in the claim as part of the single
20 definitional phrase. So it's part of a phrase that 14:53:20
21 describes what each Zone Scene has to be.

22 So it's defining the confines of the claim
23 Zone Scene by identifying what's required of the
24 Zone Scene and that is to identify a group
25 configuration associated with two or more of the 14:53:43

1 plurality of independent playback devices.

2 Q Do you think Zone Scene has different
3 meaning across the 206 and the other two patents,
4 the other two Zone Scene Patents?

5 MR. RICHTER: Object to the form; scope, 14:54:03
6 calls for a legal conclusion.

7 THE WITNESS: With respect to the term
8 "Zone Scene," as it's construed, or offered for
9 construction by the two parties, that's not an
10 opinion that I weighed in on. 14:54:16

11 So with respect to that term and its
12 meaning and whether or not the proposed
13 constructions apply across all of the asserted
14 claims of the Zone Scene Patents, that's not an
15 opinion I weighed in on, I believe. 14:54:31

16 BY MR. JAFFE:

17 Q Even though you say that there's a
18 definitional phrase in the '206 Patent that
19 collectively defines the confines of the claim Zone
20 Scene, you don't have an opinion one way or the 14:54:46
21 other on how the lack of a single definitional
22 phrase in the 885 or 966 affects what Zone Scene
23 means?

24 MR. RICHTER: Object to the form; scope,
25 assumes facts. 14:55:05

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1 THE WITNESS: So it's my understanding that
2 these terms of issues were raised in the context of
3 the '206 Patent, and so I responded to those
4 opinions. I don't recall there being opinions
5 offered as it relates to those terms in the other 14:55:23
6 patents.

7 BY MR. JAFFE:

8 Q Okay. One of the things we've mentioned a
9 few different times over the course of the day is
10 something called synchrony. 14:55:38

11 A Yes.

12 Q You use that word a number of times in your
13 declaration; right?

14 A Yes.

15 Q What does synchrony mean in this context? 14:55:50

16 A Typically it's related to playing in
17 synchrony. Beyond that, in terms of a dictionary
18 definition or a requirement of what needs to happen
19 in a system in order to meet limitations that relate
20 to that term, those are really all opinions. I 14:56:14
21 haven't taken positions on these two declarations.

22 Q In the '206 Patent and Zone Scene Patent,
23 does it describe how to emit audio in synchrony?

24 MR. RICHTER: Object to the form; scope.

25 THE WITNESS: I don't believe that's an 14:56:40

1 opinion I've offered in the declarations. I would
2 have to go back and look.

3 BY MR. JAFFE:

4 Q So let's go to column 7 in 206.

5 A Okay. 14:57:35

6 Q In a particular line, the paragraph
7 starting at line 38, all the way to 50, if you want
8 to review that to yourself. I just have a few
9 questions about it.

10 A Okay. I see what it is. 14:57:47

11 Sometimes it helps to hear the question
12 first before I just spend a lot of time reading it.

13 Q So in the middle of it, it says:

14 "As all the zone players are
15 coupled on the network, the 14:58:03
16 received signals in one zone
17 player can cause other zone
18 players in the group to be
19 synchronized so that all the zone
20 players in the group playback an 14:58:12
21 identical audio source or a list
22 of identical audio sources in a
23 timely synchronized manner."

24 Do you see that?

25 A I do see that. 14:58:22

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1 Q How would one zone player cause other zone
2 players to be synchronized as described here in
3 column 7 of the '206 Patent?

4 MR. RICHTER: Objection; form, foundation,
5 scope. 14:58:41

6 THE WITNESS: That's not really a question
7 I look to answer as part of forming my opinions in
8 the declarations, so I would have to go give it some
9 thought. I'm not really prepared to answer that
10 question now. 14:58:55

11 BY MR. JAFFE:

12 Q Can you turn to column 10.

13 A Okay. I'm there.

14 Q There's a paragraph starting at line 36.

15 A Column 10 of the '206 Patent? 14:59:52

16 Q Correct.

17 A 36?

18 Q Column 10 of the '206 Patent.

19 A And then what line?

20 Q 46. 15:00:11

21 A 46. Okay.

22 Sorry. I misheard you as 36.

23 Q No problem.

24 A Okay. I'm there.

25 Q Would you agree with this statement in the 15:00:20

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1 specification that:

2 "The present invention has
3 been described in sufficient
4 detail with a certain degree of
5 particularity and is understood 15:00:29
6 to skill of the art that the
7 present disclosure of embodiment
8 has been made by way of examples
9 only," and it goes on from there.

10 Do you agree with that? 15:00:45

11 MR. RICHTER: Object to the form; scope.

12 THE WITNESS: I see those statements. I
13 don't have any reason to believe that they're not
14 accurate, but I haven't really assessed them to
15 determine whether or not I absolutely think they're 15:00:54
16 accurate or not.

17 BY MR. JAFFE:

18 Q You don't have any reason to dispute that
19 statement in the patent specification; correct?

20 MR. RICHTER: Same objection. 15:01:05

21 THE WITNESS: I don't have any basis to
22 dispute one way or another because I really haven't
23 looked at that question, so I couldn't say yes or no
24 without having a chance to actually look and assess
25 what's being said and whether I agreed with it or 15:01:18

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1 not.

2 BY MR. JAFFE:

3 Q The last line says, quote:

4 "Accordingly, the scope of
5 the present invention is defined 15:01:37
6 by the opinion claims rather than
7 the foregoing description of
8 embodiments."

9 Do you see that?

10 A I do see that. 15:01:45

11 Q Do you agree with that statement?

12 MR. RICHTER: Objection to form; scope.

13 THE WITNESS: I haven't really looked at
14 that sentence to determine whether or not I agree
15 with it or not, so I don't -- I can't really answer 15:01:54
16 until I have a chance to look at it.

17 BY MR. JAFFE:

18 Q Sitting here today, do you have any reason
19 to dispute that that sentence is accurate?

20 MR. RICHTER: Same objection. 15:02:05

21 THE WITNESS: Sitting here today, I haven't
22 had an opportunity to form an opinion one way or
23 another, so I can't really agree or disagree with
24 it. Sitting here today, I don't obviously have a
25 reason to disagree with it if I haven't had a chance 15:02:19

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1 to look at it.

2 MR. JAFFE: I will pass the witness.

3 Thank you very much, Dr. Almeroth.

4 THE WITNESS: Thank you.

5 MR. RICHTER: Sonos has no questions for 15:03:55
6 the witness.

7 Thank you, Dr. Almeroth.

8 THE WITNESS: Thank you, gentlemen, court
9 reporter.

10 THE REPORTER: Off the record? 15:04:06

11 THE VIDEOGRAPHER: That concludes today's
12 videotape deposition of Kevin Almeroth. We're off
13 the record at 3:04 p.m.

14
15 (Whereupon the deposition proceedings
16 were concluded at 3:04 p.m.)

17

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25

1 STATE OF CALIFORNIA)
) ss.
2 COUNTY OF LOS ANGELES)
3
4

5 I, KEVIN ALMEROTH, declare under
6 penalty of perjury that the foregoing testimony is
7 true and correct to the best of my knowledge and
8 belief.
9

10 Dated this ___ day of _____, 2021.
11
12

13 _____
14 (KEVIN ALMEROTH)
15
16
17
18
19
20
21
22
23
24
25

1 STATE OF CALIFORNIA)
2 COUNTY OF LOS ANGELES) ss.
3

4 I, D'Anne Moungey, C.S.R. No. 7872 in and
5 for the State of California, do hereby certify:

6 That prior to being examined, the witness
7 named in the foregoing deposition was by me duly
8 sworn to testify to the truth, the whole truth, and
9 nothing but the truth;

10 That said deposition was taken down by me
11 in shorthand at the time and place therein named and
12 thereafter reduced to typewriting under my
13 direction, and the same is a true, correct, and
14 complete transcript of said proceedings;

15 That if the foregoing pertains to the
16 original transcript of a deposition in a Federal
17 Case, before completion of the proceedings, review
18 of the transcript { } was { } was not required.

19 I further certify that I am not interested
20 in the event of the action.

21 Witness my hand this 28th day of June, 2021.
22
23

24 

25 D'Anne Moungey, C.S.R. No. 7872